

Number 2

THE IMPACT OF INDIAN HISTORY ON THE TEACHING OF
UNITED STATES HISTORY

Chicago Conference 1984

Sessions I-II

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Introduction

The first conference on "The Impact of Indian History on the Teaching of American History" took place at the Newberry Library November 1 - 3, 1984, under the auspices of the D'Arcy McNickle Center for the History of the American Indian. This conference is one of a series organized by the McNickle Center as a special project funded by the current grant from the National Endowment for the Humanities. Later conferences will be held in Washington, D.C. October 2 - 5 1985, and in 1986 at Los Angeles.

For the Chicago conference, eighty professors of American History from across the Midwest and representatives of selected publishers gathered to listen to the papers and discuss ways of incorporating the emerging scholarship about Indian history into existing courses of instruction. This publication, Volume 2 of the Center's new series of Occasional Papers in Curriculum, includes major papers and commentary presented during the first three sessions. Papers from the last three sessions will appear in Volume 3.

These publications are being distributed to all participants in the 1984 conference, and will be included in the registration materials for the next two conferences. The contents are intended for sharing and circulation among other department members, so that the ideas can be disseminated to all teachers of survey courses in American History.

The papers are published in the form submitted to the Center staff, with proof-reading limited to a review for internal consistency. No effort has been made to recast citation into a uniform style. The papers are copyrighted in the present form, although the Center plans to produce a final publication including selected papers from all three conferences. Additional copies can be obtained by writing to: The D'Arcy McNickle Center for the History of the American Indian, The Newberry Library, 60 West Walton Street, Chicago, IL 60610.

The Indian in American History,
The Colonial Period

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More than thirty years ago, Bernard DeVoto lambasted American historians, especially the academic kind, for having made "shockingly little effort to understand the life, the societies, the cultures, the thinking, and the feeling of Indians, and disastrously little effort to understand how all these affected white men and their societies." "Most American history," he chided, "has been written as if history were a function solely of white culture--in spite of the fact that till well into the nineteenth century the Indians were one of the principal determinants of historical events."¹

I'm sure it occurs to you--as it does to me--to ask, three decades later, whether we in teaching, writing, and publishing should be tarred with the same brush. Have we done any more or any better to understand the American natives and especially to integrate them into the main course of American history, not as an exotic if melancholy footnote, but as one of its principal determinants? To the first part of the question, it can be argued, without presumption, that the history of America's Indian peoples has grown tremendously in volume and sophistication since 1952, thanks less to traditional American historians than to historically-minded ethnologists and those hybrid progeny of history and anthropology known as ethnohistorians.² As for the second part, this conference is a sincere but tardy confession that our generation, no less than DeVoto's, has made "disastrously little effort to understand how [the Indians] affected white men and

their societies.

Where historians have not deigned to tread, others have rushed in. Since the last quarter of the nineteenth century, several articles and chapters have treated "The Contributions of the American Indian to Civilization" or "Americanizing the White Man."³ But most of them are either derivative, unhistorical, or downright foolish. They all suffer from at least one of four major problems. First, with one antiquated exception, they take as their subject all of American history and culture, with no differentiation of sections, classes, demography, or chronology. Second, "Indian" culture is similarly overgeneralized; no allowance is made for tribal, culture area, or even chronological differences. Third, they focus on isolated materials and traits rather than on cultural complexes (how items were used, valued, and integrated by the natives) or on cultural creativity (how they were used, perceived, and adapted by the colonists). And finally, the conclusions of some and the implications of all lack common sense. To suggest, even indirectly, that "what is distinctive about America is Indian, through and through" or that Americans are simply Europeans with "Indian souls"⁴ is blithely to ignore the "wholly other" nature of English colonial society--its aggressive capitalism; exploitative attitudes toward natural resources; social hierarchy; nuclear kinship systems; religious intolerance; literacy and print communication; linear sense of time; imperialism based on "directed contact" and conquest; superiority complex based on religion, technology, social evolution, and ultimately race; and desire to replicate the major features of the mother society as completely and quickly as possible.

One predictable reaction to the well-meaning fatuity of such efforts to plug the Indian into American culture (if not history) was that of Wilbur Zelinsky, who surveyed The Cultural Geography of the United States in 1973. After scanning the colonial period, Zelinsky concluded that "the sum of the lasting aboriginal contribution to the North American extension of British culture was distinctly meager....Had the European colonists found an utterly unpopulated continent, contemporary American life would not have differed in any major respect from its actual pattern."⁵

Who's right--DeVoto or Zelinsky? Were the Indians a temporary and irrelevant backdrop to the realization of Anglo-American destiny or were they "one of the principal determinants" of American history? The answer is not without importance for all of us. For if Professor Zelinsky is correct, the Newberry Indian Center should restrict its fellowships to tribal historians and anthropologists, colonial historians can return to the monochromatic study of Puritan preaching, tobacco culture, and imperial legislation, and textbook publishers can--when the political "heat" from the '70s Indian Movement finally cools--cut the now mandatory opening chapter on America's "prehistory" and adventitious references to the familiar cast of kamikaze warriors, patriot chiefs, and Aunt and Uncle Tom-Toms.

As you will have guessed, I don't think Professor Zelinsky has a leg to stand on, and I will try to show why in the time that remains. But I also realize that my assignment is nearly impossible in the humane confines of a brief talk because I am in the middle of writing a three-volume treatment of the same question. In other words, to demonstrate in a straight forward, positive way how the Indians

determined American history in the colonial period would require much more time than we have--and I'm not speaking of three volumes' worth, but certainly something more than three-quarters of an hour. One way out of this dilemma is to follow Professor Zelinsky's lead and to imagine what early American history might have looked like in the utter absence of Indians in the New World. I realize that this kind of counterfactual discussion has its pitfalls as history, but for heuristic purposes it has few rivals if handled with care.⁶ When the main issue is the indispensability or irrelevance of a people to a complex course of historical events, the shortest way to resolve it is to reconstruct those events without the disputed variable. "Had the European colonists found an utterly unpopulated continent," we should ask, would colonial American life have differed "in any major respect from its actual pattern?"

To begin at the beginning, in the period of European discovery and exploration, we can say with confidence that if Columbus had not discovered los Indios (and they him), the history of Spanish America would have been extremely short and uneventful. Since Columbus was looking for the Far East, not America or its native inhabitants, he personally would not have been surprised to find no Indians in the Caribbean--the new continent was surprise enough. But he would have been disappointed, not only because the islands of the Orient were known to be inhabited but also because there would have been little or no reason to spend time exploring and settling the New World in lieu of his larger goal. America would have been regarded simply as a huge impediment to his holy plan to mount an old-fashioned crusade to liberate Jerusalem with the profits derived from his short-cut to

Cathay.⁷

If the Caribbean and Central and South America had been unpopulated, the placer mines of the islands and the deep mines of gold and silver on the mainland in all likelihood would not have been discovered and certainly not exploited quickly without Indian knowledge and labor. It is simply inconceivable that the Spanish would have stumbled on Potosi's silver deposits or those of Zacatecas if the Incas and Aztecs had not set Spanish mouths to watering with their sumptuous gilt jewelry and ornaments. Indeed, without the attraction of that enormous wealth to be commandeered from the natives, it is likely that the Spanish would not have colonized New Spain at all except with a few supply bases for which to continue the search for the Southwest Passage.

It is equally possible that without the immediate booty of Indian gold and silver, the Spanish would have dismissed Columbus as a crack-brained Italian after one voyage and redirected their economic energies eastward in the wake of the Portuguese, toward the certifiable wealth of Africa, India, and the East Indies. Eventually, sugar cane might have induced the Iberians to colonize their American discoveries, as it did the Madeiras and Canaries, but black laborers would have had to be imported to mount production. Without Indian labor and discovery, however, salt water pearls and the bright red dye made from the cochineal beetle--the second largest export in the colonial period--would not have contributed to Spain's bulging balance sheets, with all that meant for the political and economic history of Europe in the sixteenth and early seventeenth century.

Perhaps most important, without the millions of native Americans

who inhabited New Spain, our textbooks would be silent on the Spanish conquest--no "Black Legend," no Cortés or Montezuma, no brown-robed friars baptizing thousands daily or ferreting out "idolatry" with whip and faggot, no legalized plunder under the encomienda system, no cruelty to those who extracted the mines' treasures and rebuilt Spanish cities on the rubble of their own, no mastiffs mangling runaways. And without the fabulous lure of Aztec gold and Incan silver bound for Seville on the annual bullion fleets, it is difficult to imagine Spain's European rivals beating an ocean path to America to establish colonies of their own, certainly not as early as they did.

Take the French, for example. The teeming cod in the Grand Banks off Newfoundland would have drawn and supported a small seasonal population of fisherman, as it did early in the sixteenth century. But without the Indian presence, that would have been the extent of French colonial penetration. Verrazzano's 1524 reconnaissance of the Atlantic seaboard would have been an even bigger bust than it was, having found no promising Northwest Passage to the Orient, and Jacques Cartier probably would have made two voyages at most, the second to explore the St. Lawrence far enough to learn that La Chine did not lie on the western end of Montreal Island. He would have reported to Francis I that "the land God gave to Cain" had no redeeming features whatever, such as the greasy furs of Indian fisherman and the promise of gold and diamonds in the fabled Kingdom of Saguenay of which the Indians seemed to speak with such conviction.

If by chance Champlain had renewed the French search for the Northwest Passage in the seventeenth century, he would quickly have lost his backers without the lure of an established fur trade with the

natives of Acadia and Canada, who hunted, processed, and transported the pelts in native-designed, built, and manned canoes or on native snowshoes and tobaggans. And without the "pagan" souls of the Indians as a goad and challenge, the French religious orders, male and female, would not have cast their lot with Champlain and the trading companies which governed and settled New France before 1663. Without the Indian fur trade, in short, no seigneuries would have been granted along the St. Lawrence, no habitants or "King's girls" shipped out to Canada. Quebec and Montreal would not have been founded even as crude comptoirs, and no Jesuit missionaries would have craved martyrdom at an Iroquois stake. Needless to say, no "French and Indian" wars would mar our textbooks with their ethnocentric denomination. North America would belong solely to settlements of English farmers. For without the Indians and their fur trade, the Swedish and the Dutch would have followed the French lead by staying home or turning to the East for economic inspiration.

Without the lure of American gold and the Elizabethan contest with Spain that grew partly from its advent, the English, too, probably would have financed fewer ocean searches for the Northwest Passage. Unless Indian chamberpots were thought to have been made of gold, far fewer gentle-born investors and low-born sailors would have risked their lives and fortunes on the coasts of America. Unless the Spanish had reaped fabulous riches from the natives and then subjected the latter to cruel and unnatural bondage, Sir Walter Raleigh would not have supported his voyages of liberation to Guiana and "Virginia." If the Spanish buillion fleets had not sailed regularly through the Straits of Florida, English privateers would not have preyed on the

West Indies nor captured the booty that launched permanent colonies in Ireland and North America. Arthur Barlowe's 1584 voyage to North Carolina would probably not have been followed up soon without the discovery of friendly natives capable of securing a fledgling colony from Spanish incursions. If settlers had come the following year, fewer need have been soldiers, they need not have been deposited on Roanoke Island for security reasons, and they probably would never have been lost without an Armada scare to detain supplies or the freelance privateering of rescuers.

Sooner or later, the English would have established colonies in America to provide a safety valve for the felt pressures of population growth and economic reorganization and as a sanctuary for religious dissenters. But without the Indians, our textbooks would assume a very different appearance in the chapters beyond the first; and the first, remember, would not be about the Indian "prehistory" of the continent but a much truncated treatment of exploration that barely mentioned the Spanish, Portuguese, French, Swedish, and Dutch.

Once English settlement was under way, the absence of native villages, tribes, and war parties would have altered rather drastically the timing and chronology of American history. In general, events would have accelerated because in reality the Indian presence acted as a major check on colonial development. Without a native barrier (which in the colonial period was much more daunting than the Appalachians), the most significant drag on colonial enterprise would have been the lack of Indian labor in a few minor economies, such as the domestic economy of southern New England (supplied by Indian captives in the Pequot and King Philip's Wars) and

the whale fisheries of Cape Cod, Long Island, and Nantucket. Indians were not crucial to wheat farming, lumbering, or rice and tobacco culture and would not have been missed by English entrepreneurs.

Without Indians to contest the land, English colonists would have encountered no opposition to their choice of prime locations for settlement except from English competitors. They would not have to challenge Indian farmers for the fertile river valleys and coastal plains the natives had cultivated for centuries. Without potential Indian or European enemies, sites could be located almost entirely for economic rather than military considerations, thus removing Jamestown, Plymouth, and St. Mary's City from the litany of American place-names. Boston, New York, Philadelphia, and Charlestown would probably remain where they are, either because Indian opposition to their founding was minimal or because they were situated for optimal access to inland markets and Atlantic shipping lanes.

In an empty land, English leaders would also have had fewer strategic and ideological reasons for communal settlements of the classic New England type. Without the military and moral threat of Indian war parties, on the one hand, and the inexplicable seduction of native life, on the other, English colonists would have had to be persuaded by other arguments to cast their lots together. One predictable result is that New England "Puritans" would have become unbridled "Yankees" even faster than they did, and other colonies would have spread across the American map with equal speed. In other words, by 1776, Anglo-American farmers in large numbers would have spilled over the Appalachians, headed toward their "Manifest Destiny" in the West. Without Indians, Frenchmen, or Spaniards in the

Mississippi Valley and beyond to stop them, only the technology of transportation, the supply of investment capital, and the organization of markets en route would have regulated the speed of their advance.

Another consequence of an Indian-less America would be that we could not speak with any accuracy of "the American frontier" because there would be no people on the other side; only where two peoples and cultures intersect do we have a bona fide frontier. The movement of one people into uninhabited land is merely exploration or settlement, and does not constitute a frontier situation.⁸ In fact, without viable Indian societies, colonial America would more nearly resemble Frederick Jackson Turner's famous frontier in which Indians are treated more like geographical features than sociological teachers. In Turner's scenario, you'll remember, the European dandy fresh from his railroad car is "Americanized" less by contact with palpably attractive human societies than by the "wilderness" or Nature itself. Moreover, the distinctively "American" character traits in Turner's catalogue produced by living on the fore-edge of westering "civilization" would have been exaggerated by the existence of truly limitless cheap land and much less control from the Old World and the eastern "Establishment."⁹

Not only would Turner's mythopoeic "frontier" have really existed in a non-Indian America, but three other common misunderstandings in our teaching of colonial history would have been realities. First, America would indeed have been a "virgin land," a barren "wilderness" that was not home or well-known to perhaps four million native people north of Mexico.¹⁰ If those people had not existed, we would not have to explain their catastrophic decline--by as much as 90%--through

epidemics of imported diseases, warfare, injustice, and forced migrations--the "widowing" of the once virgin land, as Francis Jennings has so aptly called it.¹¹

Second, colonial history would be confined to the political boundaries of the future United States, much like the weather map on the Six O'Clock News. Without Indians, we could continue to ignore French Canada and Louisiana, the Spanish Southwest, the Russian Northwest (which would not exist without the Indian seal trade), and the borderless histories of Indian-white contact that determined so much of the shape and texture of colonial life.

And third, we would not have to step up from the largely black-and-white pageant of American history we are offered in our textbooks and courses to a richer polychromatic treatment if the Indians had no role in the past.¹² We would not even have to pay lip service to the roll-call of exclusively male Indian leaders who have been squeezed into the corners of our histories by the AIMs and Wounded Knees of the last twenty-two years. Still less would we have to try to integrate into our texts an understanding of the various native peoples who were here first, remained against staggering odds, and are still here to mold our collective past and future.

To get a sharper perspective on an Indian-free scenario of colonial history, let's increase our focal magnification and analyze briefly four distinguishing yet obviously related aspects of colonial life--economics, religion, politics, and acculturation.

If Professor Zelinsky's thesis has any merits at all, they lie on the economic side of the ledger. The economy of Anglo-America without the Indians would have resembled in general outline the historical

economy but with several significant exceptions. Farming would certainly have been the mainstay of colonial life, whether for family subsistence or for capitalistic marketing and accumulation.¹³ But the initial task of establishing farms would have required far more "grubbing" and clearing without the meadows and "park-like" woods produced by seasonal Indian burning and especially without the cleared expanses of Indian corn fields and village sites. Many colonists found that they could acquire cleared Indian lands with a few fathoms of trading cloth, some unfenced cows, or a well-aimed barrel of buckshot.

A more serious deficiency would have been maize or Indian corn, the staple crop grown by the colonists throughout the colonial period to feed their families and sometimes to fatten their livestock for export. If the Indians had not adapted wild Mexican corn to the colder, moist climates of North America and developed the agricultural techniques of hilling, fertilizing by annual burning, and co-planting with nitrogen-fixing beans to reduce soil depletion, the colonists would have lacked a secure livelihood both in the long and short-run, particularly in the early years before traditional European cereal crops could be adapted to the American climate and soils. Even if traditional crops could have been transplanted with ease, colonial productivity would not have benefitted from the efficiency and labor-savings of native techniques, which were often taught by Indian prisoners (as at Jamestown) or by allies such as Squanto at Plymouth.¹⁴ So central was maize to the colonial economy that it is possible that its absence would have acted as a severe brake on westward settlement, thereby counteracting to some degree the magnetic

pull of free land.

The colonial economy would also have been affected by the lack of Indian trade; the profits from which were used to fuel the nascent economies of several colonies, including Massachusetts, Rhode Island, New York, Pennsylvania, Virginia, and South Carolina. Without early fortunes made from Indian furs, some of the "first families" of America--the Byrds, Penns, Logans, Winthrops, Schuylers--would not have been launched so solidly or so soon in shipping, slaves, rice, tobacco, or real estate. Nor would the mature economies of a few major colonies have rested on the fur trade well into the eighteenth century. New York's and Pennsylvania's balance of payments with the mother country would have been badly skewed if Indian-generated furs had not accounted for 30-50% of their annual exports between 1700 and 1750. By the same token, a substantial portion of English exports to the colonies would not have been sent to colonial traders for Indian customers, whose historical appetities for English cloth and West Indian rum were appreciated even by those who realized that furs accounted for only 1/2% of England's colonial imports, far behind tobacco and sugar.¹⁵

The lack of Indians and Indian property rights in America would have further complicated the colonial economy by greatly narrowing another classic American road to wealth. If the new-virgin land had been literally inexhaustible and "dirt cheap," the range of legal and extra-legal means to acquire relatively scarce land for hoarding and speculation would have been markedly reduced. Within the unknown confines of the royal response to a huge, open continent, every man, great and small, would have been for himself. If the law condoned or

fostered the selective aggrandisement of colonial elites, as it tended to do historically, unfavored farmers and entrepreneurs could simply move out of the effective jurisdiction of the government or find more congenial leaders to do their bidding. The proliferation of new colonies seeking economic and political "independence" from the "tyranny" of the Eastern Establishment would have been one certain result.

Finally, I think it's predictable that America without Indians would entail the rewriting of the history of black slavery in the colonies. It is likely that, in the absence of Indians, the colonial demand for and use of African slaves would have begun earlier and accelerated faster. For although the historical natives were found to be poor workers and poorer slaves, the discovery took some time. Not only would the rapid westward spread of settlements have called for black labor, perhaps more of it indentured, but the rice and tobacco plantations of the Southeast probably would have been larger than they were historically, if scarce land and high prices had not restricted them. In a virgin land economy, agricultural entrepreneurs who wanted to increase their acreage could easily buy out their smaller neighbors, who lacked no access to new lands in the west. Of course, greater numbers of black laborers would have been needed to do the work because white indentured servants would have been extremely hard to get when so much land and opportunity beckoned over the horizon. By the same token, the slaves themselves would have been harder to keep to the task without surrounding tribes of Indians who could be taught to fear and hate the African strangers and to serve the English planters as slave-catchers.¹⁶

While most colonists came to the New World to better their material condition, not a few came to ameliorate the spiritual condition of the "godless" natives. Without the challenge of native "paganism" in America, the charters of most English colonies would have been frankly materialistic documents with pride of motive going to the extension of His (or Her) Majesty's Eminent Domain. Thus American history would have lost much of its distinctively evangelical tone, though few of its millenarian, utopian strains. Without the long, frustrated history of Christian missions to the Indians, we would lack a sensitive barometer of the cultural values that the European colonists sought to transplant in the New World and one source of denominational competition in the 18th century. Without Indian targets and foils, the colonists even of New England might not have retained their "Chosen People" conceit so long or so obdurately. On the other hand, without the steady native reminder of their evangelical mission in America, their early descent into ecclesiastical "tribalism" and spiritual exclusiveness might have accelerated with time. The "jeremiads" of New England would certainly have been less shrill in the absence of the Pequot War and King Philip's War, when the hostile natives seemed to be "scourges" sent by God to punish a sinful people. Without the military and psychological threat of Indians within and without New England's borders, the colonial fear of limitless and unpredictable social behavior would have been reduced, thereby diminishing the harsh treatment of religious deviants such as Roger Williams, Anne Hutchinson, Quakers, and the Salem witches. Finally, the French "Catholic menace" to the north would have been no threat to English Protestant sensibilities

without hundreds of Indian converts, led by "deviously" effective Jesuit missionaries, ringing New England's borders. The French secular clergy who would have ministered to the handful of fisherman and farmers in Canada would have had no interest whatever in converting "heretics" hundreds of miles away and no extra manpower to attempt it.

The appearance of the "French menace" introduces the political realm of colonial life, which also would take on a new complexion in the absence of American natives. Even if the French had settled the St. Lawrence Valley without a sustaining Indian fur trade, the proliferating English population and European power politics would have made short work of the tiny Canadian population, now bereft of Indian allies and converts in the thousands. In all likelihood, we would write about only one short intercolonial war, beginning much earlier than 1689. Perhaps the Kirkes would never have given Quebec back to the French in 1632. Without the Catholic Indian reserves of Lorette, Caughnawaga, and St. François, Canada would quickly have become English, at least as far north as arable land and lumber-rich forests extended.

Without a formidable "French and Indian" threat, early Americans would not have developed--in conjunction with their conceit as God's "Chosen People"--such a pronounced "garrison mentality" as innocent and holy victims of heavily armed satanic forces. If the English had not been virtually surrounded by French-allied Indian nations and an arc of French trading forts and villages from Louisiana to Maine, the Anglo-America tendencies toward persecuted isolationism would have been greatly sublimated.

As the colonies matured, the absence of an Indian military threat

would have greatly lightened the taxpayers' burden for colonial defense, thereby placing much less strain on the political relations between governors and representative assemblies. Indeed, the assemblies would not have risen to political parity with the royal administrators in the absence of financial crises generated by war debts and defense needs. Intercolonial cooperation would have been even less conspicuous than it was historically. Royal forces would not have been called in during the eighteenth century to bolster sagging colonial defenses and no imperial debts would have been incurred which the colonies would be asked to help amortize. Consequently, the colonies would have had few grievances against the mother country serious enough to ignite an American Revolution, at least not in 1776. And without the concentration of Indian allies on the British side, the colonists might have achieved independence sooner than they did.

Another reason why the colonists would probably not have been ready for revolution in 1776 is that, without the steady impress of Indian culture, they would not have been or felt sufficiently "Americanized" to stand before the world as an independent nation. Without Indian societies to form our colonial frontiers, Anglo-American culture would have been transformed only by internal developments, the evolving influence of the mother country, and of the black and other ethnic groups who shared the New World with the English. Black culture probably would have done the most to change the shape and texture of colonial life, especially in the South, but the most it could do would not be very much because English masters saw little reason to emulate their black slaves in any positive way, to make any adaptive changes in their own cultural practices or

attitudes in order to accommodate perceived superiorities in black culture. English colonial culture changed in response to the imported Africans largely in reaction to their oppositional being, and pervasive and often virulent racism was the primary result.

English reactions to the Indians, on the other hand, were far more mixed; the "savages" were, after all, noble as well as ignoble, depending on English needs and circumstances. Particularly on the frontier, colonists were not afraid or loath to borrow and adapt pieces of native culture if they found them advantageous or necessary for beating the American environment or the Indians themselves in the contest for the continent.¹⁷ Contrary to metropolitan colonial opinion, this cultural exchange did not turn the frontiersmen into Indians. Indian means were simply borrowed and adapted to English ends. The frontiersmen did not regard themselves as Indians nor did they appreciably alter their basic attitudes toward the native means they employed. But they also knew that their American encounters with the Indians made them very different from their English cousins at home.

While the colonists borrowed consciously and directly from Indian culture only on the frontier, English colonial culture as a whole received a substantial but indirect impress from the Indians by being forced to confront the novel "otherness" of native culture and to cope with its unpredictability, pride, and retaliatory violence. Having the Indians as sometime adversaries and fulltime contraries helped not only to reinforce the continuity of vital English traits and institutions but to Americanize all levels of colonial society more fully than the material adaptations of the frontiersmen. These

reactive changes were, in large measure, responsible for transforming colonial Englishmen into native Americans in feeling, allegiance, and identity, a change without which, John Adams reminded us, the American Revolution would have been impossible. The whole colonial experience of trying to solve a related series of "Indian problems" had much to do with giving the colonists an identity indissolubly linked to America and their apprenticeship in political and military cooperation.

What are some of these changes that would not have taken place in colonial culture had the continent been devoid of Indians? The adaptive changes are the easiest to describe. Without native precedent, the names of twenty-eight states and myriad other place-names would carry a greater load of Anglophonic freight. The euphonious Shenandoah and Monongahela might well be known as the St. George and the Dudley Rivers. We might still be searching for suitable names for the moose, skunk, and raccoon, the muskelunge and quahog, the hickory tree and marshy muskeg. It would be impossible, no doubt, to find moccasins in an L.L. Bean catalogue, or canned succotash in the supermarket. We would never refer to our children playfully as papooses or to political bigshots as mugwumps. Southerners could no longer wash down their hominy grits with scuppernong wine.

Without Indian guides to the New World, the English colonists upon arrival would have lacked temporary housing in bark-covered wigwams and longhouses. Not only would their diet have depended largely on imported foods, but their techniques for hunting American game and fowl and coping in the woods would have been decidedly

meager. Without native medicines, many colonists would have perished and the U.S. Pharmacopeia would be short some 170 entries.¹⁸ Without Indian snowshoes and toboggans, winter hunting and travel would have been sharply curtailed. Without the lightweight bark canoe, northern colonists would have penetrated the country on foot, and not in comfortable moccasins and Indian leggings. English hunters probably would have careened around the woods in gaudy colors and torn English garments much longer, oblivious that the unsmoked glint of their musket barrels frightened the game. One can only imagine what Virginia's patriotic rifle companies would have worn in 1775 as an alternative to moccasins, leggings, fringed hunting shirts, scalping knives, and tomahawks.¹⁹

Without native opponents and instructors in the art of guerilla warfare, the colonists would have fought their American wars--primarily with the British--in traditional military style. In fact, without the constant need to suppress hostile natives and aggressive Europeans, they might have lost most of their martial spirit and prowess, making their victory in the now post-poned Revolution less than certain. Beating the British regulars at their own game without some of the stratagems and equipment gained from the Indians would have been nearly impossible, particularly when the British in the eighteenth century had gained experience in counterinsurgent warfare in Scotland and on the continent.²⁰

Although the absence of adaptive changes such as these would have done much to maintain the Anglicized tone and texture of colonial life, the absence of Indians would have preserved a number of more fundamental cultural values that were altered historically. The

generalized European fear of barbarism that worried colonial planners and leaders would have dissipated without the Indian embodiment of the "heathenism" that seemed so contagious to English frontiersmen or the greater danger of Englishmen converting to an Indian way of life in captivity or, worse still, voluntarily as "apostates" and "renegades." Without the seduction of an alternative lifestyle within easy reach, hundreds of colonists would not have become "white Indians."²¹

Second, and more generally, the English definition of themselves in America would have lacked a crucial point of reference because the Indians would no longer symbolize the "savage" baseness that would dominate human nature if man did not--paradoxically--"reduce" it to "civility" through government, religion, and the capitalist work ethic. Only imported Africans, not American natives, could have showed "civilized men [what] they were not and must not be."²² Because the historical settlers were "especially inclined to discover attributes in savages which they found first but could not speak of in themselves," they defined themselves "less by the vitality of their affirmations than by the violence of their abjurations."²³ While all peoples to some extent define themselves by contrast with other peoples, the English colonists forged their particular American identity more on an Indian anvil than upon other European colonists or Africans. If America had been vacant upon discovery, the Anglo-American character would have been very different from that which we inherited.

For the whole spectrum of colonial society, urban and rural, the Indians as cultural contraries were not as frustrating, alarming, or influential as the Indian enemy. As masters of an unconventional

warfare of terror, they seared the collective memories, imaginations, and even subconscious of the colonists, leaving a deep but blurred intaglio of fear and envy, hatred and respect. Having the American natives as frequent and deadly adversaries--and even as allies--did more not to "Indianize" but to "Americanize" the English colonists than any other human factor and had two contradictory results. When native warfare frustrated and humbled the English military machine, its successes cast into serious doubt the colonists' sense of superiority, especially when the only recourse seemed to be the hiring of equally "savage" mercenaries.²⁴ At the same time, victorious Indians seemed so insufferably insolent--a projection of the Christians' original sin--that the colonists redoubled their efforts to claim divine grace and achieve spiritual and social regeneration through violence.²⁵ One of the pathetic ironies of early America is that in attempting to exterminate the wounding pride of their Indian enemies, the colonists inflated their own pride to sinful proportions.

The Indians' band of guerilla warfare, which involved the "indiscriminate slaughter of all ranks, ages and sexes," torture, and captivity for adoption, gave rise to several colonial reactions. The first reaction to the offensive war of the natives (which was in reality retaliation for previous wrongs, real or perceived) was a well-founded increase in fear and paranoia. The second reaction, as we have already suggested, was the development of a defensive "garrison mentality," which in turn reinforced the colonists' sense of being a chosen if momentarily abandoned people. And the colonists' third response to being forced to confront such a heinous enemy was that they were frequently torn from their own "civilized" moorings and

swept into the kind of "savage" conduct they deplored in their enemies, motivated conspicuously by cold-blooded vengeance. Without Indian enemies, it is doubtful if the colonists would have fallen to the slaughter and torture of military prisoners, including women and children, taken scalps from friends and enemies to collect government bounties, encouraged the Spanish-style use of dogs, or made boottops and tobacco pouches from the skins of fallen foes. It is a certainty that non-Indian enemies would not have been the target of frequent if unrealized campaigns of literal genocide; it's difficult to imagine English settlers coining an aphorism to the effect that "the only good Dutchman is a dead one."

It is both fitting and ironic that the symbol chosen by Revolutionary cartoonists to represent the American colonies was the Indian, whose love of liberty and fierce independence had done so much to Americanize the shape and content of English colonial culture.²⁶ It is fitting because the Indians by their long and determined opposition helped to meld thirteen disparate colonies into one (albeit fragile) nation, different from England largely by virtue of having shared that common history of conflict on and over Indian soil. It is ironic because after nearly two centuries of trying to take the Indians' lives and lands, the colonists appropriated not only the native identity but the very characteristics that thwarted the colonists' ultimate arrogations.

I hope by now it is obvious that Mr. DeVoto has thrown Professor Zelinsky to the mat for the count. And I trust that we can agree that without the Indians, America would not be America as we know it. The sooner we acknowledge that fact, the sooner we can get down to the

business of assessing the Indians' decisive place in American history.

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Notes

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Some Implications of Human Status

Comment by Francis Jennings, Director Emeritus of McNickle Center,

The Newberry Library

The issue before us is as old as the European invasion of America. Upon arriving on these shores, Christopher Columbus and his successors tried to fit what they saw into what is technically called their apperceptive mass--a jargon phrase for what they already knew. Prominent on the new landscape were creatures who appeared human, and there can be small doubt that sex-starved sailors experimented with the humanity of the females; but these new people seemed inhuman in their behavior, especially in religion. From the very beginning of contact, European concepts vacillated with European intentions and practices, and that vacillation has continued to the present day.

What are the standards of definition of human persons? Merely physical characteristics give only part of the operational concept. Deformed and mutilated persons are still perceived as human while others, sound in body, have been perceived as inhuman witches, beasts, or demons. Relationships and contexts must be taken into account. Kinship is pre-eminently important as one cannot deny the humanity of a relative without impairing one's own. American Indians failed to pass this curcial test because it was instantly apparent that they could not be kin to any Europeans.

Christian dogma insisted on the brotherhood of man, but Christian crusades had reduced the extent of that brotherhood in practice to Christians exclusively, and the Indians were not Christian. They were

also not subjects of any European king, so they could not be accepted as civil. To sixteenth century Europeans these Indians seemed like the "wild men" of European legends--creatures more like beasts than human beings. But the Indians had a saving grace--they were capable of being taught how to become human; i.e., they could learn Christianity and accept civil government. Together, these great lessons would civilize these wild men and thus make them human.

The eighteenth and nineteenth centuries continued such conceptions under other guises. Indians who behaved themselves and accepted Euramerican rule became "good" Indians and thus acquired the humanity normally allowed to faithful servants. They did not even have to become Christians. It was sufficient for them to show due reverence to the Great Spirit. The other Indians, however, the "hostiles" might worship the Great Spirit day and night or might even be good Catholics from the missions of French enemies, but they could not escape their quality of beastliness; and it made them into creatures, as the saying went, "with nothing human but the shape."

My approach is that of the philosopher Charles S. Peirce who disdained dictionary definitions in favor of the operational kinds disclosed by practice. In operational analysis, Europeans (like other people) have conceded humanity to persons like themselves--the closer the similarity, the better--and with whom they were at peace. Enemies in war became beasts. (We may remember that highly civilized Frenchmen in World War I tagged equally highly civilized Germans as "les boches.") It does not seem strange that Indians have become more human in our school books as the Indian wars recede into the past. When I was a boy in high school my history text was David Muzzey's

History of the American People--we were then only one people--which had the great virtue of being about half the size of the texts used today, but its other virtues are less apparent; Muzzey seemed never to notice Indians at all except in time of war. Today, however, our primitive conceptions seem to be recasting Indians from the role of dangerous vermin deserving extermination into the role of pets to be played with, and that is also a form lacking full humanity. Curiously, nowadays, big business men in the extractive industries have a clearer perception which they use on Indians to make profits just as they use their understanding of the rest of us.

Regardless of general conceptions prevailing among the masses, there have always been some informed persons who understood the real humanity of Indians, but even these often failed to have that consciousness of close kinship that imposes moral imperatives. I am thinking especially of the traders who settled in Indian villages and married Indian women. Some of them stayed there, but more commonly, it seems, the trader made his pile and then returned to what he understood to be his own people, whether they were English or French or American. Some Euramericans have deliberately married Indian women in order to acquire their share of tribal lands, much as George Washington managed to fall in love with widow Martha Custis and her Mount Vernon plantation. Exploitation of foreigners and women does not necessarily imply rejection of their humanity; all it requires is lack of scruple. Indeed, certain kinds of exploitation, like marrying money, may be so much in the mode that scruples are hardly relevant. However that may be, the textbooks are uniformly silent on the subject (unless great changes have occurred since I last scanned them); we do

not find them discussing the dissolution of tribal lands through intermarriage. For that matter, intermarriage itself is a tabu subject. Frederick Jackson Turner's line between civilization and savagery has no existence in reality, but it is alive and well in the books where "half breeds" are still born after immaculate conceptions.

Now what does all this have to do with James Axtell's paper? It depends on which Axtell we are considering. Suppose we were to restrict ourselves to Axtell-A, the one who argues that "the Indian presence served as a major check on colonial development . . . a native barrier (which in the colonial period was much more daunting than the Appalachians)." (p. 8) In that case, I think we should have to approve the outlook in Samuel Eliot Morison's Oxford History of the American People in which he remarked that "the people of America may thank brave redskins who made their ancestors pay dear for the mastery of a continent." (New York, 1965, pp. 15-16) Morison's Indians, it may seem, were merely "redskins," not really people, and their function in American history is only that of a stimulating impediment. This, in fact, is a quite traditional view, and I am rather surprised to find it reflected even momentarily in Jim Axtell's paper. It does not seem consistent with what I know of his work.

Indeed there is a quarrel in the paper we have just heard between Axtell-A and Axtell-B, and I vote for B as my Jim Dandy. As he points out, the lure of profits to be made from the plunder, labor, and trade of Indians was what motivated European expeditions and invasions here. Jim reminds us that the Indians cleared the land for early English and French settlements in North America. I would go a step further and note that those early settlements would all have starved to death if

they had not been fed by their neighboring Indians. Our textbooks like to remind us of the New Plymouth Pilgrims inviting Massasoit and a clutch of braves to their first Thanksgiving feast. We are reminded less often that Massasoit's men brought the turkey and venison for the feast.

Jim has correctly noted the importance of the trade between colonials and Indians, a trade that continues, though with diminished importance, to the present day. That massive economic institution paid the costs of settlement of the early French, English, Dutch, and Swedish colonies. Competition in the trade created diplomatic alliances of tribe and colony versus other tribes and colonies. It stimulated migrations and wars on what was then a large scale. Even as it resulted in conflict within each society, it brought about cooperation between segments of the two societies. Moreover, the trade stimulated traffic on pre-contact Indian routes along waterways and trails into the interior of the continent. The Appalachians were no barrier to Frenchmen who followed the trade through the Great Lakes and along the Mississippi Valley from the north and from the south. Nor were the mountains a barrier to the traders of Pennsylvania who followed Indian guides through the passes to do business with the tribesmen of the Allegheny and Ohio valleys. Far from being a barrier to trans-Appalachian settlement, Indians showed the way and provided incentive. English officialdom kept settlement east of the mountains by policy and legal device in order to keep the colonies under a modicum of control, and when policy changed to westward expansion, it was French opposition that formed the greatest barrier. Indians did not attack the English back settlers until the French built a line of

forts and sicked them on. The great symbol of containment of the English is not a tribe nor any combination of tribes; it is fort Duquesne.

The assumption underlying the notion of the Indian barrier is at root the Turner frontier myth, and I think it must be replaced with logical assumptions that come closer to factual reality. In recent years, Turner's frontier line separating the peoples has been reconceived as frontier regions with distinctive individual characters marked everywhere by the mingling and interaction of the peoples; and, incidentally, James Axtell has contributed greatly to this process of reconception. The old concept postulated a vacant continent through which English and Anglo-American pioneers sturdily made their way, contesting mightily all the way with the Indians of this empty continent. (Myth is not bothered by contradictions.) In contrast, the new scholarship describes in specific detail how Europeans and Indians got along with each other; and it notes that the first persons on those trails leading to the interior, and the first persons to settle upon and exploit the land--the true pioneers--were Indian. Equally the new scholarship points to the lessons learned by Indians from the superior technology of Europeans. Perhaps the most dramatic example is the transformation of the Plains Indians from sedentary horticulturalists to mounted buffalo hunters after they learned how to handle the horses introduced by Spaniards. Not so long ago, nobody would have believed that Sitting Bull's forebears busted sod.

Our textbooks should show such things, but not in the romantic manner that simply turns all the old notions upside down by substituting Indian heroes for former villains, and Euramerican

villains for former heroes. The need is to show reality, portraying persons of both societies and all ethnic stocks as fully human and subject to human follies and vices as well as human rationality and virtues.

All the faults in frontier mythology have their source in ethnocentrism. Racism is part of that, but there is more to it than just color prejudice. Nationalism and what has been called Anglo-Saxonism deprive the French *coureurs de bois* of the glamor attached to Turnerian frontiersmen; and the French settlements at Detroit, Chicago, and St. Louis inexplicably are not part of the civilization that advances upon the frontier from Harvard. St. Augustine and Santa Fe are shoved behind the scenes while Boston dances onstage. In brief, the frontier myth posits American history as an extension of English history, and the textbooks--after a nod in the direction of Columbus and the conquistadores--invariably take a stand on English earth and sail and march westward from there. What we get from these books is a history of the advance of Anglo-American political jurisdictions. This is not a history of America's peoples.

I am sure that convenience and habit contribute heavily to continuing the tradition. The alternative I have in mind will be far more difficult to research and organize, but I think enough groundwork has been done to make a start feasible. For this alternative, it will be necessary first to make a sketchy sort of inventory of the territories and peoples now constituting the United States, and to acknowledge all those peoples as human persons with historical development of their cultures. Each history should be traced as a theme, and finally the themes should be harmonized, with overtones and

counterpoint, as in a symphony, in order to give some idea of the richness and complexity of the social empire under this political nation.

The task in its fullness is staggering, and I imagine it will have to be approached tentatively with experimental essays before it can be undertaken as a project; but I think nothing else will be adequate to depict what we have been and what we are--all of us. I have flown and driven across this vast country from coast to coast, and I have explored cities and rural communities by living in them for extended periods of time. From that firsthand experience, it seems to me that the reduction of the massive and dense reality of America to a few simple phrases like the march of the frontier is a travesty on history. Yet that travesty is what we all were taught in school. It is past time for a change.

Searching for the Mainstream

Comment by T.H. Breen, Department of History, Northwestern University

The purpose of this conference--if I understand the original invitation correctly--is to assess the relation between recent Native American scholarship and something called "mainstream" history. On the face of it, this seems an eminently reasonable proposal. The last decade has witnessed in the field of Native American studies the publication of some remarkably original, provocative, and sophisticated scholarship, books and articles that any colonial American historian could certainly be expected to have read.

But, judging from the tone of James Axtell's essay, we gather together here at the Newberry Library not in the spirit of celebration, not with a sense of success, but rather, out of a feeling of frustration. Something has gone wrong, so much good writing in Indian history, so many able scholars unearthing new knowledge, and yet those historians who swim in the mainstream seem unappreciative, or worse, indifferent to the accomplishment. Indeed, here we are in the waning months of 1984, and a scholar of Axtell's obvious credentials still feels compelled to urge us to get on with "the business of assessing the Indians' decisive place in American history."

In my comments today I want to address this issue, employing Axtell's essay frankly as a foil, as an excuse to say some things that have been on my mind for some time. First, perhaps as

self-justification, let me state that I do not think the situation is as dire as Axtell suggests. One would conclude after reading his paper that the "mainstreamers" had simply turned a deaf ear to the new Native American scholarship. This is simply not the case, or at least, it has not been confirmed by my experience. There are a good number of colonial historians who pay close attention to what people like Axtell have to say. One might mention the work of individuals such as Gary Nash, Peter Wood, and Edmund S. Morgan.

Perhaps Axtell and others who share his sense of frustration have in mind textbook writers, the synthesizers who apparently feel obliged to provide an introductory chapter on the state of Indian cultures at the time of Columbus and who then quickly drop the Native Americans out of sight. But ignoring for the moment the problem of integrating Indians into later events of colonial and national history, we should not dismiss the efforts of recent textbook writers so quickly. That first chapter is more often than not now a well-formed review of the literature, indeed, a statement that mentions in a manner that does not smack of condescension the accomplishments of these peoples, and that avoids offensive, superficial stereotypes. This does not mean that the subject might not be better handled, only that in our haste to lament the state of the field, we should not overlook the obvious, substantial progress that has been made.

The way that Axtell poses his central question may inadvertently cause him to exaggerate the "mainstreamers" alleged indifference. He confronts us with a dichotomous proposition: either one supports Bernard DeVoto or one backs Wilbur Zelinsky, either we award the Indians a "decisive" place in effecting historical events or we

dismiss Native Americans as having made no lasting impact upon Anglo-American history. I suspect, however, that many colonial historians would accept neither alternative. One might, for example, acknowledge that the Indians played an important role in shaping the course of colonial history, without labeling that role as "decisive." As for Zelinsky's position, I know of no professional historian--no, not even a textbook writer--who would give credence to such nonsense.

Even here, however, I entertain reservations. It seems to me perfectly plausible to explore certain major themes of colonial history--the development of Calvinism or Republicanism, for example--without bringing in the Native Americans. In any case, Axtell's formulation of current Indian history reminds me of an earlier debate over the transfer of African culture to the New World. As you remember, scholars posed the problem in terms of an either/or division: either the trauma of slavery stripped black men and women of every vestige of an African past, forcing them as best they could to mimic the culture of their masters, or in the face of horrific conditions, they managed to preserve meaningful Old World traditions. Thanks largely to the work of anthropologists like Sidney Mintz and Richard Price, we no longer perceive the slave experience from this dichotomous perspective. We appreciate how blacks maintained certain aspects of their African cultures, borrowed elements of the European cultures they confronted in America, and forged these pieces into something entirely new--an Afro-American culture. So long as scholars thought of the transfer of values and assumptions as an either/or proposition, they failed to see the genuine human creativity that was

occurring throughout the New World. And, it may be that Indian scholars have something to learn from this earlier debated.

The challenge before us--it seems to me--is to reformulate Axtell's question. A good place to begin is with the notion of "mainstream" American history. This concept serves as a rhetorical whipping boy for those scholars who think that their work is being ignored. But, we might ask, what exactly is "mainstream" history? In my department at Northwestern University, there are men and women who teach black history, women's history, ecological history, intellectual history, economic history, religious history, urban history, military history, and diplomatic history. From time to time, I even offer something called agricultural history. Each course addresses a different aspect of the American past, a different type of human experience. Some of these offerings, no doubt, include Indians, as well they should, but with the exception of the American survey course, my colleagues make no attempt to synthesize these various sorts of history. Indeed, they complain--as do those scholars who write for learned reviews--of a fragmentation of disciplines, of an ever greater specialization, of narrow analytic vocabularies and limited methodologies. My purpose is not to condemn these intellectual trends--although they do make me uneasy--but to indicate that appeals to include Indian history in the "mainstream" are apt to ring hollow.

But for the sake of discussion, let us advance a counter-factual hypothesis. After all, it was Axtell who opened this particular Pandora's box. Let us imagine that there really is something called "mainstream" history, something readily identifiable. What then?

Most good Native American historians focus attention--as well they should--on the particular experiences of a band or group, on the cultural confrontation between specific Indians and specific Europeans. Axtell himself has described this approach as "ethnohistory." It involves a sensitive reconstruction human perceptions, of attitudes, values, and beliefs set within a particular historical setting. This kind of approach yields an extraordinary richness of insight, an appreciation of meanings developed within a social and cultural context. One thinks of the writings of men like Bruce Trigger and Richard White. To deal in larger generalizations about Native American culture risks taking an historiographic step backwards, of presenting the "mainstream" synthesizers with a "monolithic" Indian or an "Indian mind"--a concept that would by its very nature fail to do justice to the rich specificity of recent ethnohistory. I am not arguing for a new antiquarianism or suggesting that historians of American Indian cultures must concentrate solely upon local events. But the fact of the matter is that scholars working in this field have made brilliant advances in what historian Carlo Ginzberg calls "microhistory." Their success at producing middle-level generalizations has been less impressive, and until they develop such larger insights--presuming, of course, that is possible--they cannot very well blame the "mainstreamers" for failing to do their work for them.

This comment leads me to another, closely related observation. It has occurred to me that some Native American historians are not genuinely committed to the integrative goals that this conference seeks to promote. This is a strong statement and obviously requires

elaboration. Let us return to the work of the self-proclaimed ethnohistorians. If cultural relations on a moving frontier is as anthropologists Clifford Geertz and Fredrik Barth argue, a kind of "conversation," an exchange of meanings conveyed through goods, gestures, and words, then, it seems to me, that it behooves us to listen with equal attention, with equal sensitivity, to all the voices involved. We are interested in conversations, after all, not monologues.

But when we turn to the literature, what do we often find? In many accounts Indian spokesmen are treated with great imagination and insight. The historian strains against limited and biased sources to reconstitute the social and cultural environment in which the Indian's actions acquired particular meanings. We learn of his marvelously sensitive relationship with the physical environment; we discover how he interpreted the productive cycle, how he defined trade not only with other Indians but also with the Europeans, how he viewed warfare. Indeed, while we have cosigned the notion of an "Indian Mind" to the dustbin of historiography, we have come very close to creating an Indian "mentality," a detailed cognitive structure that a French cultural historian would surely envy. Recent Native American historians have brought to their subject a spirit of toleration, a deep sensitivity, a sense of respect for the Indian men and women who inhabited the Atlantic seaboard before conquest.

When these historians turn their attention to the white colonists, however, to the anonymous men and women who migrated to America in search of better lives, to the soldiers who often found themselves fighting other people's wars, to the small farmers who

spent their days attempting to feed their families, the character and tone of the analysis changes abruptly. All too often we discover that these individuals arrived in the New World burdened with a bundle of unattractive values. They were grasping, insensitive, exploitative, intolerant, violent, and in all their dealing with the natural world, ecologically unsound. And what is more, they were hypocrites mouthing words about Christian charity that they apparently never intended to put into practice. If someone like Tom Wolfe ever bothered to tell their story, he might well entitle it, "Wrong Stuff." William Cronon's recent book, Changes in the Land--a brilliant synthesis of a complex ecological literature--provides an example of what I am talking about. His Puritans could do nothing right. They ruined the forests and the fields, polluted the rivers and destroyed the marshes. The Indians by contrast understood the eco-system; they possessed "good" values. And even someone so fair-minded as Axtell writes in his paper of the Europeans' "aggressive capitalism," their "exploitative attitudes toward natural resources," their "imperialism based on...conquest," and their "superiority complex based on religion." He seems to suggest that if by chance North America had not been inhabited by millions of Native Americans, the Europeans would have had an extremely difficult time adjusting to their new environment. In fact, they come off as simpletons.

If I were to reverse this formula, if I were to suggest as historians and settlers once did, that without the benefits of Christianity the Indians would have wallowed in pagan sloth, the audience would rightfully be insulted. But, and this is my point, is it not time for Native American scholars to consider whether in their

attempts to redress the deficiencies of an older, unacceptable historiography, they have not turned the traditional analysis on its head. Instead of sullen, uncivilized Indians, we are often greeted in the literature by uniformly repacious agents of world capitalism. Indeed, the "market" has become for European cultures what "savagery" once was for the Indians, a kind of deus ex machina explanation for human behavior that can be carted in when sensitivity and sophistication fail.

To claim--as Axtell never would--that the market, or capitalism, or profits, or greed are the major elements shaping white-Indian relations in colonial America involves a type of mindless reductionism that undermines our ability to comprehend the complexities of not one, but of many cultures, European and African as well as Indian. What I have in mind is the sort of perspective adumbrated by Clifford Geertz in the opening chapter of his Interpretation of Cultures, an open-ended tracing of the meanings that people of vastly different backgrounds bring to an act apparently so simple as the wink of an eye. It should be clear that I am not advocating an approach that would mask suffering and atrocity. A more balanced assesement of these cultural conversations--reciprocal exchanges between Indians and Europeans--does not mean that the historian loses his or her ability to see and condemn wanton cruelty. Rather, by picking up the nuances of past cultures, the subtleties of human interaction, always shifting, never fully predictable, inevitably more complex than the ethnohistorian anticipates, we can place the malicious as well as the generous in contexts that the participants themselves would have understood.

The goal of the "mainstream" historian, therefore, the goal of the textbook writer, seems neither to spin out a tendentious argument that Indians--in Axtell's words--held a "decisive place in American history" or that they should be relegated to the margins of consciousness. Our aim should be the development of an interpretative framework which will help us to appreciate how people of both races structured interaction along the frontier, how they perceived each other in different situations, how time itself affected the delicate calculus of race relations. Axtell's own books and articles have suggested what this new history might look like. He has helped us to see that we have corrected the historiographic excesses of the past with excesses of our own. It is time to bring a fresh sensitivity to this field. When we do so, the problem of integrating Native American history into the "mainstream" may not seem as difficult as it does today.

The Indian in American History
American Expansion in the 19th Century

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In April, 1984, when Fred Hoxie wrote to me regarding my participation in this conference, he suggested that I address the issue of Native Americans as a focal point for the study of American history in the nineteenth century. As Fred so cogently stated, "You can no longer teach the history of American expansion in the 19th century without making the Indian experience central to the course." Then, to further goad me on, Fred added, "Is this an overstatement? If so, why? If not, explain."¹

As an Indian historian, I have never really questioned the merit of exploring Indian history for its own sake. Indeed, I believe that most Indian historians would argue that their discipline stands on its own: That there is an intrinsic value in the study of Indian people, regardless of their relationship to the "mainstream of American history." Yet Fred's questions raise an important point regarding the role of Indians or other minority groups within the broader history of the American experience. For too long Indian history, Black history, and even Women's history have been regarded as esoteric sideshows only vaguely related to the primary focus of historical development in the United States. Indians, in particular, have served as "barriers" to the advancing frontier, historical foils to be overcome by hardy frontiersmen intent upon spreading the American mission from coast to coast.

After receiving Fred Hoxie's charge, I have given it considerable thought. Like many members of the audience, I also teach beginning American history surveys to large classes of undergraduates (primarily freshmen and sophomores), and like other survey teachers I am constantly distressed over my inability to incorporate all pertinent facets of American history into a two semester (six hours of academic credit) survey of the subject. I know that I give some important subjects short shrift, and I'm sure that my coverage of the Great Awakening, foreign diplomacy during the Federalist and Jeffersonian periods, or the Antimasonic movement would make specialists in the colonial, Federalist, Jeffersonian, and Jacksonian periods shudder. Yet I'm also certain that it is functionally impossible to present a six hour survey of American history that will completely satisfy every interest.

I may be a cynic, but given the nature of graduate training in most history departments, I rather doubt that most teachers of American history surveys will restructure their courses to focus upon the Indian-white experience as the central theme of American expansion. Yet I would strongly argue that there are many facets of the Indian-white experience that offer very valuable insights into the nature of American expansion and the growth of American institutions and ideas in the nineteenth century. Any survey of American history which does not incorporate some of these materials is missing an important part of the American experience. Therefore, I would like to focus my remarks upon two closely related, but different general topics. The first, as mentioned previously, is the impact of Indians upon what might be termed "the mainstream of American history": those themes or

institutions which are discussed in almost all surveys, but which are sometimes seen as having little, if any, relationship to Indians. The final part of this paper will address some new or different interpretations of events in which even the most conservative apologists for white expansion would agree that Indian people played dominant roles.

As the American nation expanded westward, Indian people played a major role in the conflict between state and federal governments over the dispensation of federal lands. Although Alexander McGillivray's attempts to maintain the Creek homeland emerged just prior to the nineteenth century, they were the first part of an extended Creek confrontation with Georgia which helped to define the limits of state sovereignty over government lands in the west. Eager to legitimize its colonial claims to lands in the Yazoo Strip, during the years which followed the American Revolution, Georgia sought to purchase part of these lands from the Creek confederacy. Georgia's purpose obviously was twofold. Not only would such a purchase assure Creek acquiescence in white settlement of these lands, but a formal treaty with the Creeks would strengthen Georgia's claims that the western territories were the property of the state, and not the federal government.

The Creek response was predictable. Like most other tribes, the Creek confederacy was characterized by decentralized leadership, and in 1783 state officials were able to persuade one faction of the tribe to sign the Treaty of Augusta, which ceded a large acreage between the

Savannah and Galphinton rivers to the state of Georgia. Both the national government and the Creeks opposed the treaty, and through an alliance with Spain the Creeks were able to prevent an American occupation of the region. Meanwhile, the new federal government was eager to assert its claims to lands in the west, and also disapproved of Georgia, or any other state negotiating with the tribes. By 1789 the Creek alliance with Spain was endangered by the Nootka Sound Crisis, and McGillivray sought a new ally against the Georgians. In the Treaty of New York, signed in 1790, the Creeks accepted federal suzerainty and promised they no longer would negotiate with individual states. In return, the federal government assured the Creeks it would protect "all their lands within the limit of the United States." Although the federal government forgot its promises to the Creeks, the Treaty of New York sounded the deathknell for Georgia's and other state's claims to lands west of the Appalachians. American expansion would continue, but American frontiersmen could no longer legally claim Indian lands through state or local treaties. The western lands belonged to the federal government.²

The federal government's failure to honor its promises of protection of Indians and their lands reflects another theme familiar to American historians: the government's inability to maintain effective control over its western citizens. Between 1795 and 1809 federal officials signed seventeen treaties with the tribes of Ohio, Indiana, Illinois, and Michigan, but the agreements were honored more in their violation than in their adherence. Imbued with a sense of their own self-righteousness, American frontiersmen ignored the treaty regulations, regularly crossing over onto Indian lands to hunt, trap, or

establish homesteads. Although federal officials in Ohio and Indiana made desultory attempts to protect Indian interests, they could not stop the tide of American aggrandizement. White trespass upon Indian lands reached such proportions that in 1801 William Henry Harrison, the Governor of Indiana Territory complained:

The people of Kentucky. . .make a constant practice of crossing over into Indian lands. . .to kill deer, bear and buffaloe (sic). . .One white hunter will destroy more game than five of the common Indians,

and in response to a more serious problem, Harrison added, "a great many of the Inhabitants of the Fronteers (sic) consider the murdering of the Indians in the highest degree meritorious." Federal lawmakers in Washington might be willing to differentiate between Indian and white lands, but for the frontiersmen, the western territories held a vast cornucopia to be exploited to their own advantage. Indians were seen as part of a wilderness impediment which either had to be removed, or converted to "civilization."³

Such a phenomenon was not new. The Proclamation of 1763 had been enacted by the British government to address a similar problem, and parallel circumstances continued throughout the nineteenth century. Federal failure to protect Sioux lands in western South Dakota and Wyoming following the second Treaty of Fort Laramie offers another case study of frontiersmen completely ignoring the promises made by their government in Washington. Of course the federal government and western citizens clashed over several significant questions, but the problem of Indian land tenancy offers a unique opportunity to explore the nature of that conflict.⁴

Conflicts between Indians and whites over Indian lands also offer some interesting insights into the entrepreneurial values of the Jacksonians. By the 1820's the older adherence to a planned organic economic system was under attack from emerging entrepreneurs who believed that "the powdered wig set" were controlling the nation's resources for their own benefit. After the adoption of the cotton gin spread cotton production across the Gulf Plains, Indian lands in the region became the focus of local land speculators. Their complaint was not that the federal government had failed to purchase Indian land holdings (indeed, by the 1820's much of the former tribal holdings already were in the public domain), but that the government did not immediately buy all the Indian lands remaining within their respective states, and send the tribes packing across the Mississippi.

In contrast, many officials in Washington, as exemplified by President John Quincy Adams, still gave at least lip service to the civilization programs that had been in force since the beginning of the century. In theory the Indians were to adopt white life styles and be assimilated into American society. In actuality, Adams also may have favored some type of removal program, but he championed carefully planned and legalistic procedures through which the changing status of the Indians and their tenure on tribal lands could be delineated.

Any hesitancy and long term planning was unacceptable to local expansionists led by Governor George M. Troup of Georgia. In 1825 agents employed by the federal government, but under Troup's influence negotiated the Treaty of Indian Springs with a faction representing a minority of the Creek confederacy. After the treaty was ratified by

the Senate in March, 1825, the tribe executed William McIntosh, the leader of the treaty faction. Troup threatened to overrun Creek lands with the Georgia militia, and federal officials interceded, nullifying the Treaty of Indian Springs, but signing the Treaty of Washington with the Creeks one year later. The new treaty also called for the cession of Creek lands in Georgia (already a fait accompli, since settlers had moved into the region), but the terms were more favorable for the Indians and the federal government promised to guarantee the remaining Creek lands in Alabama. In theory at least, federal officials had interceded to partially protect Indian interests from expansionists at the state and local levels of government.⁵

Whether the Adams regime would (or could) have honored its promises remains doubtful, but in 1828 Andrew Jackson was elected to the presidency and the spokesman for the rising class of entrepreneurs was in the White House. Jackson's Indian policy is a matter of record, and it is not surprising that the Indian Removal Bill was passed during his first term in office. All American historians are familiar with the supreme court cases which were adjudicated during his presidency, and both *Cherokee Nation vs. Georgia* and *Worcester vs. Georgia* remain landmark cases in constitutional history courses. Both cases also reflect the conflict in philosophies of government and economic theory between the Jacksonians and the adherents to the older, more organic interpretation of society.⁶

The surrender of valuable land was not the only economic asset that Indians provided on the American frontier. By the third decade of the nineteenth century almost all of the tribes east of the Great Plains were enmeshed in the American economic system, and were

dependent upon traders for many of the necessities of life. At the same time, because of their annuity payments and other sources of income, they provided an important source of revenue for frontier merchants and traders. Only recently have historians begun to explore the nature of this relationship, and their inquiries have revealed two rather interesting phenomena. First, the magnitude and importance of the Indian community to the income of white entrepreneurs often had been underestimated. The Indian trade, if properly manipulated, was so lucrative that frontier merchants vied among themselves to gain a greater share of it. In 1821 John Crowell resigned his seat as the lone congressman from the state of Georgia to accept an appointment as agent to the Creek Indians. He promptly issued trading licenses to members of his family and Crowell and his kinsmen amassed a fortune.⁷ Because most tribesmen were illiterate, there were few checks and balances upon the traders' practice of selling the Indians goods upon credit, then padding the accounts when the traders demanded payment. Sometimes the fraud reached phenomenal proportions. A recent study indicates that in 1836 several bands of Potawatomis in frontier Indiana were alleged to have accumulated debts of over \$169,000. A federal investigation subsequently proved that almost 50% of the claims were completely fraudulent, but in many other instances the funds were deducted from the Indians' annuities. If the Age of Jackson was a time of economic opportunism, Indian people and their resources played a significant role in the development of the economy in the west.⁸

Not surprisingly, many of these frontier merchants exercised considerable influence over the tribes. Indian traders such as the

Ewing brothers of Indiana, or the Kinzie-Forsyth partnership at Chicago dabbled in tribal politics, and even worked to prevent the removal of tribes which allegedly owed them money. In 1837 George Ewing warned government Indian agents that Potawatomis in northern Indiana would never remove unless he was paid what he claimed the Indians owed to him. In some instances federal agents treating for the purchase of tribal lands were forced to work through the traders to ensure the success of their negotiations. Ironically, the traders then often removed west with the tribesmen, following the source of their revenue across the Mississippi.⁹

Racism is a theme which permeates American history in the nineteenth century, and although most studies of racism during this period focus upon Black-white relations, American attitudes toward Indians also offer some interesting insights into the broad scope of American prejudice. Throughout the last century federal officials assured Indian people that they would be readily accepted into the American mainstream if they would relinquish their "savage" lifestyle. Yet subsequent actions by both American citizens and their government illustrate that such promises were rank hypocrisy.

Events in the Old Northwest during the decades that followed the War of 1812 indicate that Americans sometimes refused to accept Indians, even if the latter had adopted many tenets of European civilization. In 1827 Commissioner of Indian Affairs Thomas McKenney traveled among the tribes of this region, and later reported to officials in Washington that the Indians should be removed beyond the Mississippi because they had rejected government attempts to transform them into small yeoman farmers. McKenney charged that the tribesmen

still followed the lifestyle of their fathers: "They catch fish, and plant patches of corn; dance, hunt, and get drunk when they can get liquor, fight, and often starve."¹⁰ But what McKenney and many other Americans failed to realize, was that many Indians in the region had made great changes from the traditional cultures of their forefathers. Indeed, many of the Indians in Michigan, Illinois, and Indiana had adopted a lifestyle that resembled those whites with whom they had the closest contact: the Creole French whose ancestors had settled in the Old Northwest during the previous century. Like the Indians, many of the Creoles also continued to hunt, trap, and fish; and like the Indians they too were seen as improvident and even "uncivilized" by Anglo-Americans. American officials newly arrived at Vincennes Indiana described the Creole population as "a rabble whose appearance caused us to doubt whether we had not actually landed among the savages themselves," and at Detroit Lewis Cass charged that:

As traders. . .they spend one half of the year in labor, want, and exposure, and the other in indolence and amusements. Associated with the Indians, they contracted their manners, and gained their confidence. As a necessary consequence their farms were neglected. . .¹¹

Yet if American observers had been less biased, they would have noted that by the 1820's many Miami, Potawatomi, and other tribesmen were active in the fur trade, working as porters or laborers, or selling merchandise to both whites and Indians. In 1816, when Indiana entered the union, the most wealthy man in the state was reputed to be Jean Baptiste Richardville, a mixed-blood Miami trader. Of course not all the Indians were as acculturated as Richardville, or the

Chandonnai family among the Potawatomis, but neither were they living within the culture of their forefathers. Indeed, most of the tribesmen in the region already had adopted many tenets of European culture, but from the American perspective it was the wrong culture: the Creole French. Ironically, American frontiersmen were almost as biased in their attitudes toward the Creoles as they were toward the Indians. And since the tribesmen had acculturated toward the wrong ethnic group, American observers refused to admit that they made any significant changes. They were not yeoman farmers, so they should be removed to the west.¹²

If the Indians in the Old Northwest were removed because federal agents refused to acknowledge their acculturation, no such excuse can be offered in defense of those officials who forced the tribes from their lands in Georgia, Alabama, and Mississippi. Potawatomis, Ottawas, and Miamis might have adopted surnames such as Le Clair, Beaubien, or Godfroy, but among the Cherokees and Creeks, Scotch-Irish or English surnames were common. Of all the southeastern peoples, the Cherokees probably were the most acculturated. Recent scholarship indicates that they Cherokees may not have subscribed to the Anglo-American value system to the extent that earlier historians suggest, but by all accounts they had adopted many tenets of American culture, and in many ways they emulated the ways of their white neighbors. In retrospect, the Cherokees designation as one of the "Five Civilized Tribes" by ethnocentric whites is tacit admission that the latter believed the Cherokees had accepted the basic core of 19th century American civilization.¹³

Yet the Cherokees' "civilization" afforded them little protection. After gold was discovered on Cherokee lands in Georgia, white Americans ignored the significant "progress" (as whites defined the term) the tribe had made and overran their territories. The history of the usurpation of Cherokee lands and the Indians' subsequent removal is a familiar story which needs no re-telling, but it remains an excellent example of American racism and the hypocrisy of federal Indian policy. Regardless of how "civilized" the Cherokees had become, other Americans still saw them as "Indians" and therefore not encompassed in the protection which the Constitution extended to white men.

There is an interesting footnote to the Cherokee-white relationship which illustrates that the racism shown to the tribe was not just a southern phenomenon. As most historians are aware, much of the support for the Cherokees in their fight against removal came from politicians and humanitarians in New England. Whether this opposition to Indian removal emanated from a sincere concern over the Indians, or from political opposition directed against Andrew Jackson remains uncertain. In addition, some opponents to Cherokee removal may have been motivated by their opposition to the tribe extending slavery into the west. Yet during the crisis of the removal years the New England press was particularly vociferous in its denunciation of the South's treatment of the Indians.

In contrast many New Englanders were much less willing to accept Cherokees, or less acculturated tribesmen into their midst. During the 1820's several Cherokee students enrolled in a mission school for "foreign" students at Cornwall Connecticut. Although the students

performed admirably in their classes, two young Cherokee men became betrothed to two young white women from the Cornwall community. The marriage of the first couple (John Ridge and Sarah Northrup) engendered such an aftershock of prejudice, that the school's board of directors forbade its students to associate with eligible women from the Cornwall community. The second suitor, Elias Boudinot, temporarily returned to Georgia, but when he returned in 1826 to claim his bride, Harriet Gold, the community erupted in a frenzy of racism. Former friends of the bride dressed in black crepe to signify her spiritual death, and she was burned in effigy on the village green (her own brother ignited the fire). Threats of physical violence were made toward the couple and they were forced to hide for their safety. The marriage finally took place, but following the ceremony an armed guard accompanied the couple as far as Washington, D.C., as the newlyweds fled to the Cherokees for sanctuary. Needless to say, the Cherokees sent no more students to the Cornwall Academy.¹⁴

Although much has been written about the hardships suffered by the Indians during the removal process, there is another facet of this forced relocation which is often overlooked: the role played by the Indians in bringing changes to the trans-Mississippi west. Ironically, those eastern tribes seeking new homes on the fringe of the Great Plains became catalysts for transmitting the very socio-economic system they were fleeing. And their entrance onto lands previously dominated by tribes indigenous to the region posed a substantial threat to these western peoples. In many cases the western tribes opposed the resettlement of Eastern Indians, and bitter conflicts emerged over hunting lands in Iowa, Kansas, Missouri, and Oklahoma.

Not surprisingly, the emigrant warriors usually emerged as victors in these conflicts. Although the popular press has touted the military skill of the plains tribes, the eastern warriors had experienced over a century of intertribal conflict generated by European and American confrontations. Cherokee, Shawnee, and Delaware warriors steadily pushed the Osages from their lands in Missouri and Arkansas, while tribesmen from the Old Northwest usurped the hunting lands of several plains tribes in Kansas.¹⁵ Potawatomi and Sac tribesmen may have feigned pleas to federal officials, asking for protection against the Sioux, but when the two sides met on the prairie, the newcomers to western Iowa successfully defended themselves. In June, 1853, a party of mounted Potawatomis rode to the assistance of a village of Pawnees who had been attacked by a large force of Cheyennes, Arapahoes, Sioux, and Kiowas. Although the plains warriors swooped down on the newcomers, the Potawatomis formed ranks, and firing from horseback, easily repulsed the Cheyennes and their allies. Seeking revenge, one year later another large war party of almost 700 plains warriors attacked 200 Sacs and Foxes who were hunting buffalo on the Smoky Hill River in Kansas. In this instance the Sacs and Foxes dismounted, again formed ranks, and repulsed their enemies repeated charges. When the plains warriors withdrew, they had suffered over 100 casualties. The Sacs and Foxes lost only a handful of warriors.¹⁶

In Oklahoma, the occupation of the eastern part of the state by the Five Southern ("Civilized") Tribes created an oasis of relative sophistication in an area not known for its gentility. Although full-blooded traditionalists may have moved west hoping to recreate their old way of life free from American influence, the acculturated

mixed-bloods who had dominated the tribes in their ancestral homelands re-asserted their hegemony in Oklahoma. Centered around such communities as Atoka, Tahlequah, Muskogee, and Tishomingo, the Choctaws, Cherokees, Creeks, Chickasaws, and later the Seminoles carved out plantations, planted fields of cotton, and erected fine ante-bellum houses. Chiefs and councils were elected, judges appointed, and the "Indians Nations" policed themselves. Meanwhile, they established what was probably the best rural school system west of the Mississippi during the ante-bellum period, including seminaries and "finishing schools" for advanced students. Many of the graduates of the Cherokee school system were sent back into the eastern states where they attended college. By any standard these Indian emigrants did as much to "tame" the frontier as many white pioneers in the west.¹⁷

The economic success of the Five Southern Tribes created another phenomenon that also proliferated in Oklahoma: the continued inter-marriage of Indians and whites. Since all members of the tribe or their spouses were eligible to claim potential farmland within tribal territories, many white men married Indian women. Such marriages were celebrated for other reasons. Most frontier whites in Oklahoma were from relatively low socio-economic classes. When these men married the often more sophisticated, more financially secure Indian women, they were marrying "up." It is not surprising that so many modern Oklahomans claim Cherokee grandmothers. Maternal ancestors such as these Cherokee women were proud additions to white families struggling for upward socio-economic mobility.

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Americans unsure of their standing, the "triumph" of American "civilization" over the Indian population of the United States seemed to provide one favorable measure of their country's progress. Not only did their "republican virtue" separate them from European corruption, but their achievements assured them that they no longer were "primitives" like the Indians. The Indians symbolized a wilderness that was being conquered, and the tribesmen's demise was indicative of the "grand drama of progress" sweeping westward across the United States.¹⁹

American frontiersmen readily subscribed to such views, and argued that Indians were an obstacle to manifest destiny. In addition, the frontiersmen alleged that the Indians were "wasting" their lands because they refused to participate in economic activities such as agriculture, ranching, or mining: charges which reflect either the ignorance or duplicity of the frontiersmen. As James J. Rawls' recent volume, The Indians of California, illustrates, American settlers in California were adept at modifying the image of the California tribes in a manner designed to facilitate their own interests. Prior to the Mexican War, American settlers depicted the Indians as being mistreated by the Spanish mission system, and argued that the American government had a moral obligation to liberate such "poor devils" from Mexican and Catholic oppression. Yet when California passed into American hands, the California tribesmen were first described as a ready source of labor, made "docile and tractable" by their experiences in the mission system. Finally, when Americans no longer believed that they could utilize Indian workers, white Californians

promulgated the image of the "sub-human diggers," as a rationale for the tribesmen's extinction.²⁰

Recent scholarship has also shed new light upon several facets of American expansionism with which Indians always have been associated. Perhaps the most classic of these is the interaction of Indians and white emigrants as the latter made their way west to new homes in California or Oregon. Although the popular media has always devoted considerable space to depicting wagon-trains manned by white settlers under attack by war parties of Indians, the late John Unruh's The Plains Across illustrates that such confrontations rarely occurred. In contrast, Unruh indicates that many white travelers saw few, if any Indians, and that the contacts between the two groups were more often amenable than otherwise. Early emigrants on the plains sometimes relied upon Indians for information regarding their route, and other travelers hired Indian warriors to assist them in transporting their livestock and possessions across flooded river bottoms. Indeed, during the 1840's tribesmen in Washington and Oregon carried large numbers of emigrants downstream in their canoes, even providing portage services around such hazards as the Cascades of the Columbia. In addition, Unruh points out that both sides traded briskly with one another, providing a useful interchange of commodities between the two communities. Many tribesmen did attempt to charge the emigrants to cross their lands, but given the number of game animals killed, and the timber cut by such travelers, such fees were not unreasonable.²¹

Obviously, conflicts between Indians and whites occurred, but as Unruh points out, Indians posed a far greater threat in terms of pilferage, than as perpetrators of violence. Tribesmen sometimes stole horses from the wagon train's picket line, and they often wandered through a camp, pocketing items they thought were useful. Diaries kept by emigrants are full of entries such as the following: "They (the Indians) are friendly disposed and no disposition to hostility is shown. They, however, steal all they can but as yet they have not got much from us." Another wayfarer reported back to his hometown newspaper that he believed, if given the opportunity, the Pawnees could "steal a horse from under his rider."²²

Rumors of bloodshed were far more common than any actual loss of life. Of course such violence did occur, but in the two decades between 1840 and 1860, approximately 316,000 emigrants traveled west over the Oregon Trail. During that period the Indians killed 362 travelers. In the same two decades, by their own admission, American emigrants murdered 426 Indians. Ironically, although the Great Plains are usually pictured as the scene of this violence, most lives were lost after the wagon trains had crossed through South Pass. The western segment of the journey was far more dangerous.²³

Indians also have been associated with American expansion and the War of 1812, but recent scholarship suggests that the Indian confederation which emerged prior to that conflict needs further examination. Traditionally, historians have attributed the movement to Tecumseh, the Shawnee war chief who traveled among the western tribes from 1809 to 1811, attempting to enlist the warriors into a political and military organization designed to defend the remaining Indian land

base east of the Mississippi. In contrast, Tecumseh's brother, Tenskwatawa, the Shawnee Prophet, usually has been portrayed as a religious charlatan who rode Tecumseh's coattails to a position of minor prominence. Yet throughout American history, during periods of significant stress, Indian people traditionally have turned to religious leaders or revitalization movements for their deliverance. Spiritual spokesmen such as Neolin, the Delaware Prophet; Handsome Lake of the Senecas; Smoholla, the Sokulk "preacher"; Wovoka of the Paiutes and others are good examples of holy men who emerged to meet their people's needs.

Two recent studies, The Shawnee Prophet, and Tecumseh and the Quest for Indian Leadership suggest that Tenskwatawa, the Shawnee Prophet may have been more instrumental than Tecumseh in forging the Indian coalition in the years preceding the War of 1812. After examining all the primary materials focusing upon these events, the author has concluded that for four years, from 1805 until 1809, the religious teachings of the Shawnee Prophet were the magnet that attracted the thousands of Indians, first to Greenville, in Ohio, then to Prophetstown. Although there are extensive references to the Prophet and his movements in documents from this period, there is no mention of Tecumseh prior to April, 1808, when British officials in Canada mention that "the Prophet's brother" visited Amherstburg. William Henry Harrison, Tecumseh's primary antagonist does not mention the Shawnee chief until August, 1810, and then Harrison also refers to him only as "the Prophet's brother," since he evidently had not yet learned Tecumseh's name. Indeed, Tecumseh does not challenge his brother for leadership until after the Treaty of Fort Wayne (1809)

which transferred extensive Indian landholdings in Indiana to the United States. The Shawnee war chief then used his brother's religious movement as the base for his ill-fated, political-military confederacy.²⁴

Both volumes suggest that white historians have championed Tecumseh as the author of the Indian resistance movement since his concepts of political and military unity seemed more logical (by white standards) than the Prophet's religious revitalization. Yet the Prophet's doctrines may have had more appeal to the Indians. The biography of Tecumseh argues that Americans have idolized Tecumseh since they believe he fits their concept of the "noble savage." The volume also discusses the extensive apocrypha which have been associated with the Shawnee chief since his death.²⁵

Finally, the impact of economic expansion upon the politics, economics, and social structure of an Indian tribe is masterfully portrayed in Richard White's discussion of the Choctaws in his recently published volume, Roots of Dependency. Although White begins his analysis in the period prior to European contact and traces changes in Choctaw culture through the colonial era, much of his discussion focuses upon the impact of the American market economy upon the Choctaws during the first third of the nineteenth century. White's book is especially valuable in its discussion of the rise of mixed-blood leadership among the tribe and their role as champions of a market economy. He illustrates that many traditional Choctaw leaders were willing to remove to new lands in the west, since they believed that their traditional life-style could no longer be maintained on their ancestral lands in Mississippi. In contrast, the

mixed-bloods who were proponents of white agricultural enterprises fought removal since they believed that Choctaw lands east of the Mississippi offered the potential for economic growth and the accumulation of capital.²⁶

The mixed-bloods' opposition to Indian removal enabled them to emerge as the defenders of the Choctaw homeland, and markedly increased their influence among many rank-and-file members of the tribe. Utilizing their new image as tribal patriots, the mixed-bloods then allied themselves with missionaries to encourage further changes which they believed would strengthen the tribe's ability to retain their homeland in Mississippi. Meanwhile, the Choctaws became more deeply enmeshed in the region's market economy, and the tribe eventually was overwhelmed. This brief synopsis of only a few chapters of White's volume fails to adequately portray his sophisticated analysis, but the study probably presents the most detailed and insightful investigation which has yet been written of the development of economic dependency in an Indian tribe. It also presents an excellent study of intra-tribal politics during the removal period.²⁷

In conclusion, Indian people had a profound impact upon the expansion of the United States in the nineteenth century. Not only did Indians influence the geographic thrust of expansion, they also shaped the relationship between American frontiersmen and their government. Moreover, Indian assets provided an economic impetus to many communities in the west. And finally, American conceptions about

Indians affected the development of American ideas and attitudes during this period.

Obviously, there are other areas in which Indians shaped American expansion. Indians also played a role in the American exploration of overland routes to the Pacific, and in the post-Civil War period, acculturated Indian leaders in Oklahoma heavily influenced economic and industrial expansion on the south-central plains.²⁸ Yet limitations of time and space preclude the delineation of these and many other possibilities. Hopefully, this paper and the following commentary will generate further discussion which will provide additional insights into this subject.

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Footnotes

¹Frederick Hoxie to David Edmunds, April 25, 1984. (This letter is in the author's correspondence file.)

²The best discussion of McGillivray's attempts to maintain Creek independence and its impact upon American history can be found in Michael D. Green, The Politics of Indian Removal: Creek Government and Society in Crisis (Lincoln: University of Nebraska Press, 1982), 17-43. Also see Green, "Alexander McGillivray," in R. David Edmunds, American Indian Leaders: Studies in Diversity (Lincoln: University of Nebraska Press, 1980), 41-63; John Caughey, McGillivray of the Creeks (Norman: University of Oklahoma Press, 1938); Arthur P. Whittaker, "Alexander McGillivray, 1783-1789," North Carolina Historical Review, 5 (April, 1928), 181-203; Whittaker, "Alexander McGillivray, 1789-1793," North Carolina Historical Review, 5 (July, 1928), 289-309; Randolph Downes, "Creek-American Relations, 1782-1790," Georgia Historical Quarterly, 21 (June, 1937), 142-184; Downes, "Creek-American Relations, 1790-1795," Journal of Southern History, 8 (August, 1942), 350-373; and Helen Tanner, "Pipesmoke and Muskets: Florida Indian Intrigues of the Revolutionary Era," in Samuel Proctor, ed., Eighteenth-Century Florida and Its Borderlands (Gainesville: University of Florida Press, 1975), 13-39.

³William Henry Harrison to the Secretary of War, July 15, 1801, in Logan Esarey, ed., Messages and Letters of William Henry Harrison,

2 vols. (Indianapolis: Indiana Historical Commission, 1922), I, 25-31.

⁴Wilcomb Washburne's Red Man's Land - White Man's Law (New York: Charles Scribner's Sons, 1971) offers a good survey of the Indian-white conflict over land tenancy.

⁵Green, The Politics of Indian Removal, 69-125.

⁶Mary E. Young's Redskins, Ruffleshirts, and Rednecks: Indian Allotments in Alabama and Mississippi, 1830-1860 (Norman: University of Oklahoma Press, 1961) provides an excellent analysis of the methods through which allotted Indian lands passed into American hands.

⁷Green, The Politics of Indian Removal, 59-68.

⁸R. David Edmunds, "Designing Men, Seeking a Fortune: Indian Traders and the Potawatomi Claims Payment of 1836," Indiana Magazine of History, 72 (June, 1981), 109-122.

⁹Robert Trennert's Indian Traders on the Middle Border: The House of Ewing, 1827-54 (Lincoln: University of Nebraska Press, 1981) offers an excellent case study of the impact of traders in the Middle West. Gary C. Anderson's Kinsmen of Another Kind: Dakota-White Relations in the Upper Mississippi Valley, 1650-1862 (Lincoln: University of Nebraska Press, 1984) discusses the impact of traders upon the Sioux in Minnesota.

¹⁰Report by Thomas McKenney, March 22, 1830, U.S. Congress, Senate, 21st Congress, 1st Session, Senate Document 110, 2-3.

¹¹Adam Walker, "A Journal of Two Campaigns of the Fourth Regiment of U.S. Infantry," in Esarey, Harrison Letters, I, 697; Cass to the Secretary of War, Main Series, Record Group 107, National Archives (M221, Roll 65, 8346-8348).

¹²For an informative series of essays upon the impact of the mixed-blood or Metis community in Canada and the Great Lakes region see Jacqueline Peterson and Jennifer S.H. Brown, eds., The New Peoples: Being and Becoming Metis in North America (Lincoln: University of Nebraska Press, 1985). Ethnologists define "acculturation" in different ways, but in this paper the term shall be defined as the process through which the culture of a minority (Indian) changes to resemble the culture of a dominant European or American group.

¹³Secondary materials on the Cherokees and the other southern tribes are so numerous that any attempt to offer limited suggestions for further reading will be incomplete. The following are but a few of the many studies which focus upon acculturation within this tribe: Grace Steele Woddard, The Cherokees (Norman: University of Oklahoma Press, 1963); Rennard Strickland, Fire and the Spirits: Cherokee Law from Clan to Courts (Norman: University of Oklahoma Press, 1975); Henry T. Malone, Cherokees of the Old South: A People in Transition (Athens: University of Georgia Press, 1956); Theda Perdue, Slavery and the Evolution of Cherokee Society (Knoxville: University of Tennessee Press, 1979); John Finger, The Eastern Band of Cherokees,

1819-1900 (Knoxville: University of Tennessee Press, 1984). Also see Gary B. Nash, "The Image of the Indians in the Southern Colonial Mind", William and Mary Quarterly, 3d. Ser., 29 (April, 1972), 197-230; William G. McLoughlin and Walter H. Conser, Jr., "The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835," Journal of American History, 44 (December, 1977), 678-703; Mary Young, "The Cherokee Nation: Mirror of the Republic," American Quarterly, 33 (Winter, 1981), 502-524.

¹⁴For details of the confrontation at Cornwall, see Ralph Gabriel, Elias Boudinot (Norman: University of Oklahoma Press, 1941), and Theda Perdue, ed., Cherokee Editor: The Writings of Elias Boudinot (Knoxville: University of Tennessee Press, 1983).

¹⁵Grant Foreman, Advancing the Frontier, 1830-1860 (Norman: University of Oklahoma Press).

¹⁶George Hyde, The Pawnee Indians (Norman: University of Oklahoma Press, 1974), 235-236; William T. Hagan, The Sac and Fox Indians (Norman: University of Oklahoma Press, 1958), 225-229.

¹⁷Grant Foreman, The Five Civilized Tribes (Norman: University Press, 1934).

¹⁸Robert F. Berkhofer Jr., The White Man's Indian (New York: Alfred A. Knopf, 1978), 86-96. Also see Martin Zanger, "Red Bird," in Edmunds, American Indian Leaders, 64-87; and R. David Edmunds,

Tecumseh and the Quest for Indian Leadership (Boston: Little, Brown, and Co., 1984), 223-225.

¹⁹Berkhofer, The White Man's Indian, plate 8 (following page 138).

²⁰James J. Rawls, Indians of California: The Changing Image (Norman: University of Oklahoma Press, 1984).

²¹John D. Unruh, Jr., The Plains Across: The Overland Emigrants and the Trans-Mississippi West, 1840-1860 (Urbana: University of Illinois Press, 1979), 156-200.

²²Ibid, 181.

²³Ibid, 184-185.

²⁴See R. David Edmunds, The Shawnee Prophet (Lincoln: University of Nebraska Press, 1983), and Edmunds, Tecumseh. Also see entries for June 10-July 15, 1808, Diary of William Claus, Claus Family Papers, Manuscript Group 19, Vol. 9, 198-199, Public Archives of Canada; Harrison to the Secretary of War, August 6, 1810, Esarey, Harrison Letters, I, 456-459.

²⁵Edmunds, Tecumseh, 213-225.

²⁶Richard White, The Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos (Lincoln: University of Nebraska Press, 1983), 1-146.

²⁷Ibid.

²⁸For good surveys of these two topics, see James P. Ronda, Lewis and Clark Among the Indians (Lincoln: University of Nebraska Press, 1984); and H. Craig Miner, The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907 (Columbia: University of Missouri Press, 1976).

2-01

Indian-white Relations in the Nineteenth Century:

Alternative Perspectives

Comment by Mary Young, Dept. of History, University of Rochester

Although I have never actually seen anyone skin a cat, I have received repeated assurances that there is more than one way to do it. I have seen people teach survey courses, and know for a certainty that there are many more ways than one to do that. David Edmunds' proposals seem to me particularly well suited to a survey course focusing on political, economic, and diplomatic activity, territorial expansion, and the attitudes of Americans toward those peoples whose territories are contracting so that the United States may expand. A survey course designed to concentrate on cultural and social history, on "American expansion" more broadly conceived, might examine the Native American experience somewhat differently.

I have but one quarrel with Dave's "facts." The 1790 Treaty of Washington did not settle the question of Georgia's claims to what we now call Alabama and Mississippi, nor was it designed to do so. The question at issue in 1790 was a different one. During the period of the Articles of Confederation, both the United States and several of the states made treaties with Indian tribes. The Constitution gives Congress responsibility for regulating trade with the Indians and stipulates that U.S. treaties shall be the supreme law of the land; but it does not unambiguously forbid the state to compete with the general government in the treaty-making business. Only in the Indian Intercourse Act of 1790 did Congress specifically require a

representative of the United States to be present at the negotiations and stipulate that Senate ratification was required to validate a treaty. The Creek Treaty of 1790 replaced an earlier instrument negotiated by the state of Georgia, and in effect ceded back to the tribe lands Georgia thought she had taken. A treaty with the Cherokees of 1791 similarly replaced a more "advantageous" agreement between that tribe and the state of North Carolina. Georgia and North Carolina congressmen complained bitterly in both instances: the Senate nonetheless ratified the federal agreements. Thus Congress established an exclusive right on the part of the national government to negotiate treaties with the Indians.¹

Or -- apparently it did. In fact, where tribes within state boundaries posed no threat to public safety, some states continued to make treaties independent of federal interference. Thus it was that in 1975 the Penobscot and Passamaquoddy of Maine were able to win a Supreme Court ruling that obliged the Secretary of the Interior to sue on their behalf to recover lands in Maine (about two-thirds of the state) improperly purchased by Massachusetts after 1790 without federal participation or ratification. Fortunately for Maine, the Penobscot and Passamaquoddy of the 1970's proved as amenable to compromise as their ancestors had been. They settled for a limited indemnity in land and money. Rather than occupying Bangor, they distributed college scholarships.²

As this cautionary tale may suggest, Indians by virtue of their historic legal relationships with the national government constitute an unique minority in the American system.

The federal government acquired its claim to Georgia's western territories not by the Treaty of 1790, but by a Compact of 1802. Like the 1790 Intercourse Act, the 1802 compact contained a time-bomb. In return for Georgia's "cession" the United States promised to acquire--and pay for--the Indian title within the present boundaries of the state as soon as this could be done "peaceably and reasonably." During the ensuing twenty years, the Creek and Cherokee proprietors of western Georgia, with federal encouragement, undertook to "civilize" themselves by acquiring more slaves, improving more plantations, and strengthening their tribal governments. None of these activities facilitated federal acquisition of their lands. By the early 1820's, the Georgians understandably launched bitter protests against the civilization program and the federal government's failure to meet its obligations under the Compact. The Cherokee constitution of 1827, which proclaimed the tribe's sovereignty within its borders, did nothing to alleviate Georgia's anxieties. The state's extension of her laws over "her" Indians, beginning in 1828, must be understood in this context. As the Georgians saw it, the state's "rights" to the Indians' lands were founded at least in part on a specific contract with the federal government, on which the federal government had reneged.

Pedantry aside, I am not inclined to quarrel with any of Dave's examples of the relationships between Indian tribal development and United States expansion. Rather, I would like to explore briefly some alternative emphases.

Cultural historians might note that while stereotyping Indian savagism, "mainstream" Americans also stereotyped their own

"civilization" in various interesting ways. The essence of that civilization, according to several generations of Commissioners of Indian Affairs, United States agents to the tribes, and Christian missionaries, consisted in private property in land, male agriculture, literacy in English, numeracy sufficient to conduct the "ordinary business of life," and Christianity. Long after most Americans had ceased to be farm-dwellers, and long after most tribes had relinquished access to prime agricultural lands, Indian policy remained captive to the agrarian myth.⁴

Toward the end of the nineteenth century, the Navajo and Pueblo peoples of the Southwest sometimes suggested that they had more to teach the government about farming on arid lands than the government had to teach them. Despite the alleged departure from ethnocentrism that marked the Indian New Deal, no one ever took them up on the offer. By the 1930's, superior grasp of science and technology, rather than agrarian virtue, became the hallmark of a "progressive" civilization. Many lifetimes of intensive, empirical study of the local environment apparently did not qualify as "science;" and in the name of scientific planning, the Collier administration proceeded to devastate the Navajo subsistence economy despite the well-founded warnings of Indian farmers and graziers.⁵

The bourgeois and sexist bias of nineteenth century American culture also emerges in the "civilization" program. Cherokee women whose foremothers had cultivated the river valleys of the southern Appalachians since the time of Charlemagne must have been amused to learn that theirs was a "hunting" society. Societies were classified according to what the men were doing. At a time when female

domesticity and Republican motherhood were being invoked to tame the civilized American male, few commissioners of Indian Affairs had anything to say of women's roles in native culture change except to prescribe that they should learn to spin and weave. Apparently, it took a man behind a plow behind a fence to classify a society as "agricultural," and a husband with private property and a commitment to the marketplace to support a wife committed to domestic gentility.⁶

While the government's basic conception of Christian "civilization" remained almost stagnant during a period of extensive change in the American economy and society, methods of imposing civilized behavior became markedly more rigid and coercive as the century wore on. Unlike the southeastern Indians of the 1820's and 1830's, Plains Indians of the 1880's and 1890's sometimes had to face agents who tried to take unto themselves nearly the whole power of governing the reservations. Rather than simply encouraging support for schools and subsidizing missionaries, the government sent Indian police to capture children for distant boarding schools and banned Indian ceremonials as a matter of fiat. Rather than simply handing out plows and preaching the virtues of private property, federal representatives intimidated and coerced tribes with and without pretensions to an interest in farming into agreeing to divide their common lands into small, individually-owned farms and sell the surplus after allotment. In his brilliant analysis of late nineteenth century policy, Francis Paul Prucha suggests relationships between anxieties over assimilation of East European immigrants and the dosage of hundred percent Americanism that was thrust down the throats of recalcitrant Indians.

During the decade when William McKinley proposed to uplift, educate, and Christianize the Catholic (and tribal) Filipinos, the American Congress deprived missionary schools of funding. Their newfound attachment to the separation of church and state was inspired by Protestant discoveries that Catholic missionaries were teaching far more Indians than Protestant missionaries were reaching. By majority standards, Catholicism apparently did not qualify as a civilizing, or at any rate a civil religion.⁸

All these things the encounters between Indians and other Americans may tell us about "mainstream" American culture. But the mainstream was not the only river around. For the social and cultural historian, the evolution of Indian tribal societies and cultures may constitute a subject worthy of study in its own right--though changes in Indian societies are hardly intelligible without reference to their increasingly subordinate relationship to white, Christian, imperial civilization.

Until 1871, the United States dealt with Indian tribes as sovereign nations, and their special rights under treaties, executive agreements, and congressional legislation mark Indians as a distinctive minority. These claims, as well as the resiliency of tribal cultures, make Indian people an unique minority. As Vine Deloria has eloquently argued, social, cultural, and political separatism rather than a general passion for assimilation derives logically from this uniqueness.

Furthermore, as D'Arcy McNickle suggested in one of his piquant surveys of Indian-White relations, They Came Here First.¹⁰ They did not try to join us. We joined--or more frequently, displaced--them.

The millennia of cultural development preceding that intrusion produced hundreds of distinctive tribal civilizations and the dozens of tribal societies that persisted into the nineteenth century differed from one another in language, subsistence patterns, social organization, and polity to an extent unparalleled in other minority groups.

The diversity of tribal cultures and historical experiences makes it easier to generalize about Indian policies than about "Indian" social and cultural evolution. One must select "sample" experiences. But how? I have found classes especially interested in the Indian history of our own region. Upstate New Yorkers are especially fortunate in having at their disposal a number of excellent studies of the Iroquois, perhaps especially Anthony F. C. Wallace's classic study of religious revitalization, The Death and Rebirth of the Seneca.¹¹ The emerging corpus of the Smithsonian Institution's new Handbook, the bibliographical work of Paul Prucha, Dwight Smith, George F. Murdock, and the Newberry Library bibliographical series, together with the current lists of the Oklahoma, Nebraska, Tennessee, New Mexico, and Arizona University presses (to name a few) enable the instructor to find tribal histories and other monographs applicable to nearly every region.¹²

Despite the enormous problems of comparability facing anyone who tries to synthesize the histories of several tribes, we also have some fine comparative studies. One might even argue that historians and anthropologists have done at least as well in providing comparative studies of Indian tribal development as immigrant, labor, and urban

historians have done in synthesizing or comparing their numerous community-focused monographs.

Edward Spicer's Cycle of Conquest, and his edited work, Perspectives in American Indian Culture Change are classics in the field. For those who like to study history through biography, Dave Edmunds' edition, American Indian Leaders, is especially valuable. Dave has called our attention already to Richard White's The Roots of Dependency, a brilliant comparative study of the interaction of culture, ecology, economic pressure and political stress in reducing the Choctaw, Pawnee, and Navajo people to colonial dependents of the metropolis.¹³

What emerges from these comparative studies, and from a multitude of tribal histories, is an account of Indian societies that stands in almost polar opposition to the picture of "savage" conservatism or static traditionalism proposed by those who tried to "civilize" the nineteenth century tribesmen. Indians did not convert themselves into carbon copies of their mentors. But in the face of often devastating pressure for change, they showed extraordinary adaptability and resiliency in modifying their economies, social and political organizations, and religious practices in order to survive and often to renew and revitalize their commitments to core values that continued to nourish Indian community life in 1900 and beyond.¹⁴ No one has yet convinced me that God is Red, but I think their experiences worth pondering.

FOOTNOTES

¹Francis Paul Prucha, American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1780-1834 (Cambridge: Harvard University Press, 1962); George Dewey Harmon, Sixty Years of Indian Affairs: Political, Economic, and Diplomatic 1789-1850 (Chapel Hill: University of North Carolina Press, 1941). Michael D. Green, The Politics of Indian Removal: Creek Government and Society in Crisis (Lincoln: University of Nebraska Press, 1982).

²Mary Young, "The Indian Question Revisited," Marxist Perspectives 1 (1978), 34-49.

³Ulrich B. Phillips, Georgia and States Rights (Washington, Government Printing Office, 1902).

⁴Prucha, Formative Years; Robert F. Beakhofer, Salvation and the Savage: An Analysis of Protestant Missions and American Indian Responses, 1787-1862 (2nd ed., New York: Atheneum, 1976); Henry Warner Bowden, American Indians and Christian Missions: Studies in Cultural Conflict (Chicago: University of Chicago Press, 1981). A particularly discriminating recent analysis of missionary efforts in a single tribe is William C. McLoughlin, Cherokees and Missionaries, 1789-1839 (New Haven: Yale University Press, 1984).

⁵For the Pueblos, see letter from the Moqui Villages, March 27 and 28, 1894, reproduced in Mabel E. Deutrich and Virginia C. Purdy, eds., Clio Was a Woman: Studies in the History of American Women (Washington, D.C., Howard University Press, 1980), 102-105; On the Navajo, Richard White, The Roots of Dependency: Subsistence, Environment and Social Change among the Choctaws, Pawnees, and Navajos (Lincoln and London: University of Nebraska Press, 1983), 212-314. On Collier, see Lawrence C. Kelly, The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform (Albuquerque: University of New Mexico Press, 1983).

⁶Mary Young, "Women, Civilization, and the Indian Question," in Deutrich and Purdy, eds., Clio Was a Woman, 98-110.

⁷American Indian Policy in Crisis: Christian Reformers and The Indians, 1865-1900 (Norman: University of Oklahoma Press, 1976).

⁸Francis Paul Prucha, The Churches and the Indian Schools, 1888-1912 (Lincoln: University of Nebraska Press, 1979).

⁹Vine Deloria, Custer Died for Your Sins: An Indian Manifesto (New York: Macmillan, 1969); Behind the Trail of Broken Treaties: An Indian Declaration of Independence (New York: Delacorte Press, 1975). See also Russell Barsh and James Youngblood Henderson, The Road: Indian Tribes and Political Liberty (Berkeley: University of California Press, 1980).

¹⁰D'Arcy McNickle, They Came Here First: The Epic of the American Indian (Philadelphia: Lippincott, 1949).

¹¹(New York: Random House, 1969; 1972)

¹²Francis Paul Prucha, A Bibliographical Guide to the History of Indian-White Relations in the United States (Chicago: The University of Chicago Press, 1977); Dwight L. Smith, ed., Indians of the United States and Canada: A Bibliography, 2 vols., (Santa Barbara: AEC-CLIO, 1974-83). George P. Murdock and Timothy J. O'Leary, Ethnographic Bibliography of North America, 5 vols. (New Haven: Human Relations Area Files Press, 1975). Although I dissent from his cavalier dismissal of tribal histories as "old-fashioned," Reginald Horsman, "Well-Trodden Paths and Fresh By-Ways: Recent Writing on Native American History," in Stanley I. Kutler and Stanley N. Katz, eds., The Promise of American History: Progress and Prospects. Reviews in American History 10, no. 4 (1982), 234-244, contains a useful history and commentary on recent books.

¹³Edward H. Spicer, Cycles of Conquest: The Impact of Spain, Mexico, and the United States on the Indians of the Southwest, 1553-1960 (Tucson: University of Arizona Press, 1962); same ed., Perspectives in American Indian Cultural Change (Chicago: University of Chicago Press, 1961); R. David Edmunds, American Indian Leaders: Studies in Diversity (Lincoln: University of Nebraska Press, 1980). See also Frederick R. Eggan, The American Indian: Perspectives for

the Study of Social Change (Chicago: Aldine, 1966); Ralph Linton, ed., Acculturation in Seven American Indian Tribes (Gloucester, Mass.: P. Smith, 1963, c. 1940).

¹⁴See also Mary Young, "The Cherokee Nation: Mirror of the Republic," American Quarterly 33 (1981), 502-524; D'Arcy McNickle, Native American Tribalism: Indian Survivals and Renewals (London: Oxford University Press, 1973).

2-01

"The Impact of the 'New Indian History' on United States History"

Comment by James A. Henretta, Boston University, Department of History

We seem to be nearing the end of an historiographic era. For the past two decades historians in a variety of fields have challenged established interpretations and approaches and have set forth new arguments and methods. The result of this intellectual ferment has been appearance of a host of new specialities: the new social history, the new political history, the new labor history, new definitions of Afro-American and women's history, and--of course--the new Indian history. Recently, scholars active in many of these fields have met in conferences, such as this one. Their goal has been to assess the impact of the "new" scholarship on the understanding of American history as a whole. In a sense, the entire field of United States history is in the midst of a major effort of synthesis and re-interpretation.

As long as each of the "new" histories developed in splendid isolation, their significance to the American experience as a whole remained uncertain. If anything, the adherents of each field of study exaggerated the intrinsic importance of their subject and magnified its importance in the grand panorama. As the effort of synthesis begins, each of these claims will be subject to close scrutiny and challenge. The process of devising a new framework and a new content for the American past may therefore generate controversy as well as creative thought.

Let me begin this task not by talking about historians but about historical events and actors. Specifically, let us consider the changing impact of the Native American peoples on "other" Americans. From this perspective, I see primarily a steady decline over time. That is, Indians were the only actors in the American experience before 1600 and they remained central to the drama of the American past until 1800. Then, for the next century, they played a very important role in one facet of the history of 19th century America--the western expansion of the white (and black) population that is the subject of this session. Finally, in the twentieth century, Native Americans have become relatively minor actors in the historical drama of the United States. They constitute a small percentage of the population; exercise effective control over few natural or economic resources; and do not stand at the center of the evolving story of American life.

Some of you may dissent from this analysis; and, like most generalizations, it needs qualification. (Native Americans may be minor actors in shaping contemporary United States history as a whole, it might be argued, but they [and their mineral rights] represent a formidable presence in most western states and in Alaska.) But assuming its validity for the moment, what are the consequences for integrating the new Indian history into American history as a whole?

In his nicely written and carefully reasoned paper, Professor Edmunds implicitly addresses this and other questions. Early in his essay, Edmunds discusses three modes of "doing" Indian history. First, he points to "the merit of exploring Indian history for its own sake." "There is," he declares (and I agree) "an intrinsic value in

the study of the Indian people." Second, he points to the relationship between the Indian experience and the so-called "mainstream of American history"; indeed, the bulk of his paper consists of a sensitive and enlightening exploration of various ways of relating Native Americans to significant aspects of white historical experience during the nineteenth century. Third, and finally, Professor Edmunds concentrates on a few episodes--such as the migration of thousands of whites across the Great Plains to Oregon and the coming of the War of 1812--in which Indians played a central role.

I have no major quarrel with the substance of Edmunds' presentation. Indeed, I would like to extend it. What needs to be done, I believe, is to tie each of these ways of "doing" Indian History to a separate chronological period. By so doing, I will argue, we will arrive at an appropriate strategy for integrating the Native American experience into the broader curriculum of United States history.

Because Indians are the central actors in the American experience in the seventeenth century, it follows that historical surveys of this period have to be focused primarily on the Native American peoples. There are two aspects to this focus, one quantitative and the other structural. In this period Native Americans deserve equal space. In the forthcoming textbook that I have helped to write, the chapter on the seventeenth century is divided equally--in terms of space--among Indians, Puritans, and whites in the Chesapeake.

Beyond this standard of quantitative equality, Indians are accorded a priority of focus, structure or causation. That is, Native Americans are accorded a fundamental role in shaping the evolution of white society. The European experience is interpreted in a

"secondary" fashion--as the product of interaction with Indians and not as the result of an inner logic of its own. The impact of Native Americans appears in a particularly dramatic form in Bacon's rebellion, probably the single most important political event in seventeenth-century Virginia. Whatever the social and political tensions among white Virginians, it is doubtful that an armed rebellion would have occurred without the preceding period of warfare against Indians. And Native Americans determined the character of early colonial life in a variety of less obvious ways--such as the economic importance of the fur trade--as well. The facts simply are that Indians are the most significant actors in seventeenth century America; and so that is the way the history of the period must be told.

After 1700 and particularly after 1800, the so-called "mainstream of American history" diverges from that of Indian history. Hence, the teaching strategy must change. The instructor must look for points of congruence between the two historical experiences, and they are there. Indians play a crucial role in the War for American Independence and, as Professor Edmunds has pointed out, in the events leading up to the War of 1812. Subsequently their experience provides a way of discussing other important events and processes, as Edmunds has also indicated. His suggestions should be of assistance to instructors who are looking for ways to integrate Indian history into their own teaching programs.

Indeed, his list could be lengthened. One of THE central themes of United States history during the nineteenth century is the "Christianization" of the American peoples--white, black, and red. In my text this facet of the American experience is given central

importance in the discussion of Indians in the early nineteenth century. The reasons are twofold. First, this approach permits me to discuss the three major racial groups together--as common participants in a broad process of cultural change. Second, this strategy allows me to acquaint students with the methods and insights of anthropologists, such as Anthony Wallace, who have discussed religious revitalization movements among Native Americans and to apply similar sorts of analyses to white evangelical churches and sects. Here, then, is one case where the "new Indian history" and the "new social history" do not fight one another for scarce space in survey text, but complement one another. Taken together, they begin, in fact, to re-define the content of the "mainstream" of American history.

This strategy of using the Indian experience to discuss the central events and themes of United States history is less applicable in the twentieth century. For Native Americans often do not constitute the best examples for the investigation of life in the urban, industrial, and bureaucratic world of the twentieth century. Indians participate in the complex world of modern, corporate America; indeed Native Americans have probably had more experience with state and federal bureaucracies than most other social groups. But these interactions were in many ways unique--determined by the semi-sovereign political status of Indian tribes, by their treaty rights, and by their distinct cultural values. Thus, adventures of other racial and ethnic groups usually provide us with more clues as to the character of the national experience as a whole. There are ways of circumventing this situation. I was intrigued, for example, by Edmunds' discussion of white male social mobility in Oklahoma

through intermarriage with Cherokee women. Yet it would probably be a mistake, in an introductory survey course, to use Native Americans to discuss the theme of social mobility. The leverage provided by the example is simply too weak.

To teach the history of Indians in the twentieth-century United States therefore requires a different approach. Here I would suggest that instructors select episodes in the Native American experience that are important "for their own sake" in order to teach undergraduates about Indians in the recent past. What makes an aspect of history important for its own sake? The answer, I think, is that the episode reveals in a dramatic way some crucial facets of existence in a given social or ethnic or racial group. These aspects of life can then be used by the instructor in various contexts: as an illustration of the pluralism of American culture; or as a stark statement of problems and issues raised by life in contemporary America (a situation that the student will intuitively comprehend); or as part of a comparative analysis of social or cultural differences--in systems of property relations or concepts of gender roles. Here, the study of Native Americans becomes less an analysis of the American mainstream than the vivid depiction of a people whose lives have an important intrinsic significance that we want our students to understand and to ponder.

Thus, the strategy of integrating the results of the "new Indian history" to American history changes over time--from structural centrality, to mainstream commentary, to intrinsically interesting explication or comparison. By adopting this strategy we have devised a way of compensating, as it were, for the declining significance of

Indians as actors in American history. And we have also avoided telling the Native American story as simply a series of lost military and cultural battles against the European invaders.

But this is not enough, for two inter-related reasons. First, as the papers and comments at this conference have indicated, Native Americans remain an important part of the "mainstream" of the history of the western states (and some of those in the east, such as Maine) in the twentieth century. Issues such as tribal political jurisdiction and control of energy resources remain "front-page" news throughout the West, with the exception of California. As such, they deserve treatment--even in introductory courses--when the events of that region are discussed.

Yet how important is the "West" (minus California and urban population clusters in the Pacific Northwest) in the twentieth century or even in the nineteenth century? This question raises a second problem with respect to the three-phase teaching strategy outlined above. For, in our role as scholars, we must recognize that the subject of westward expansion itself no longer engages the attention of many, perhaps most, historians of the United States. Surveys of college and university curricula indicate a steady decline in courses dealing with "history of the west"; significant numbers of graduate students no longer write dissertations on this subject; and few of the leading members of our profession have achieved their scholarly reputations in this field. To tie Indian history to the declining fortunes of the history of white expansion would seem to be a recipe for disaster.

Or perhaps it is the only way of avoiding disaster. Perhaps the only way to resuscitate the field of western expansion is to rewrite it in the light of the "new Indian history." Or maybe I should say, a yet-to-be-devised history of Native Americans. Here I must confess my ignorance; I do not have a firm grasp of the field of late-19th and 20th-century Indian history, old or new. Perhaps what I will call for already exists or is clearly on the horizon.

Let me explain. As some of you know, the social history of pre-industrial America has been rewritten during the past two decades. This major transformation stemmed, in large measure, from the intrusion of Europe. This intrusion took two, interrelated forms. First, American scholars emulated the methods of British social historians and French historical demographers and cultural geographers. Second, they interpreted the experience of the white immigrants to North America in terms that were true to their European antecedents; they saw them not as people who were historical exceptions--somehow outside the mainstream of Western Civilization--but rather as the offsprings of the peasants, artisans, and merchant capitalists of early modern Europe. Suddenly, dramatically, early American history became more important--because the characters that walked on its stage partook of the wider European experience. And scholars who wrote about this experience spoke in the same intellectual language as their European colleagues.

Can a similar transforming elevation of white western expansion and Native American history take place? Can it be seen and written about not as a distinctively "American" experience, an exception to the course of nineteenth-century history, but rather as part of the

larger phenomenon of European imperialism? Or, to put it more precisely still, can it be analyzed as one facet of the world-wide appropriation of aboriginal lands and resources by the peoples of European descent? Such a history need not be explicitly comparative--directly relating British settlement in Kenya, for example, with Anglo-American expansion into the Far West. Nor should it ignore the profound differences among Native Americans, Australian aboriginals, or African tribal peoples. Nor, finally, should it consist of an unthinking application of concepts derived from other historical experiences to the materials of American western history. Rather, this new American scholarship should be informed by the methods of scholars studying this process of European expansion in those geographically-distant lands and it should address similar issues and problems.

The followers of Frederick Jackson Turner attempted such a reconciliation of western American history with the frontier experience of other lands, but their effort was fatally flawed. The concept of the frontier was too charged with ideological baggage; it failed to comprehend the role of traditional culture in the experience of white migrants; and it virtually neglected the Native American peoples. Its days are past. (Yet it too can be resuscitated by an infusion of new scholarly perspectives. I call your attention to Walter Nugent's The Structures of American Social History [Bloomington, 1981], an exciting attempt to synthesize the arguments of Thomas Malthus, Turner, and Fernand Braudel and thus to re-interpret the frontier thesis in terms of recent demographic and social history.)

And yet the frontier thesis imparted such intellectual and emotional vigor into the history of the West as to establish it as a magnificent field of study. It should be the task of a "new Indian history" to restore that drama to the study of the western expansion, to save it from intellectual extinction, and to link it not only to the mainstream of American history but to the experience of Europeans and aboriginals throughout the world during the nineteenth century.

Thus, the task before us is twofold. First, we must begin the task of integrating the "new histories" of the scholarly era that is now ending into the story of American history. Today I have outlined one possible way of doing this in the field of Indian history. It is a strategy that acknowledges the declining significance of Native Americans as actors in the broad panorama of United States history and that advocates a distinct teaching approach for each chronological phase. The strategy, to repeat, proceeds from (a) structural centrality in the early period; to (b) mainstream commentary in the nineteenth century; and finally to (c) intrinsically interesting explication and commentary and comparison in the twentieth century.

Even as this work moves forward, historians in the field of the "new Indian history" have the opportunity to revive the academic study of the American west. They can do so, perhaps, by rewriting it in the light of the broader phenomena of European expansion into aboriginal lands during the nineteenth century and by employing the wider set of historical concepts, issues, and methods devised by scholars of that experience. Such an effort, if successful, will save Indian history--and in a measure, American history as a whole--from the dangers of parochialism. And it will make western expansion once again an

intellectually absorbing as well as a central theme of the history of the United States.

2-01

THE PLACE OF INDIAN LAW IN CONSTITUTIONAL LAW AND HISTORY

Charles F. Wilkinson

Most law teaching is implicitly presentist. The basic thrust of legal education is to teach modern, real-world law in order to train professionals, lawyers who can serve real-word clients. Many of us dispute that approach on several grounds, not the least of which is that detailed historical development, and an understanding of events and perceptions that existed in prior eras, are essential tools for excellent practicing lawyers. Further, a presentist bias tends to camouflage the fact that law is derivative and that law is built upon other primary sources--of which, in my view, history is pre-eminent. Nevertheless, I think there is little doubt that a kind of pragmatic modernism pervades the study of law.

In response to this, constitutional texts for undergraduate and graduate non-law students purport to offer a perspective that is more balanced in historical terms. Professor Shapiro's leading book for undergraduate students, for example, explains by way of introduction that "as the amount of current doctrine has increased, historical materials [in law texts] have been curtailed. The normal solution [in the books for law students] has been to describe the Marshall period rather well and then move briskly to at least 1937 before beginning thorough analysis. In undergraduate instruction. . .we have more time to spend on developing the historical continuities, believing that

such an investment of time comports well with the general goals of liberal arts as opposed to professional education."¹

Yet, the undergraduate constitutional texts have done little better than the law books in integrating American Indian law into the larger body of constitutional law and history. I am not here to overstate a point. Indian issues are not somehow decisive in constitutional law. At the same time, I am satisfied that several concepts and events from Indian law and policy simply cannot legitimately be extricated from the essence of constitutional law and that others afford valuable enrichment and depth. What has happened, however, is that the constitutional law and history texts have unconsciously bought into the "Vanishing American" idea and it has tainted the presentation of our most fundamental body of law. The undergraduate constitutional texts are thus presentist also. All of the books that exclude or minimize Indian issues on this basis are doubly wrong because the premise is wrong: as I will suggest at several points, Indian issues have come to be of considerable social, political, legal, and economic importance during the last twenty-five years, especially in the American West.²

To highlight my conclusions, which I will of course proceed to discuss in more detail, let me ask a few preliminary questions. Worcester v. Georgia³ was the legal centerpiece in the Cherokee-Georgia conflict of the 1820's and 1830's in which the Supreme Court held firm, on federalist grounds, against assertions of state power.⁴ The Worcester opinion has been cited by modern courts more than all pre-Civil War Supreme Court opinions save three.⁵ In 1959 the Supreme Court described Worcester v. Georgia as one of Chief

Justice John Marshall's "most courageous and eloquent opinions."⁶ Charles Warren, a leading historian of the Supreme Court, called the Cherokee-Georgia question "the most serious crisis in the history of the Court."⁷ How, as is the case, can Worcester v. Georgia be excluded from virtually all of the constitutional texts?

In Worcester v. Georgia and in modern times, the Court has squarely held that Indian tribes possess inherent sovereignty and that the only other sources of sovereignty in this country are the states and the United States itself.⁸ How can it be that our constitutional law texts resolutely instruct us that there are just two sources of governmental authority, state and federal, and wholly ignore Indian tribal sovereignty--a governmental authority that extends over 52 million acres, or 2-1/2% of all land in the country?

My third question involves the dramatic and historic dispute concerning Indian treaty fishing rights in the Pacific Northwest. This has been one of the great racial conflicts of our time, involving, among many other things, the allocation of 50% of the Northwest's famous and exquisite salmon and steelhead runs, so valuable to both commercial and sports groups, to less than 1% of the population.⁹ In addition to that profound equal protection question, the litigation proceeded against a backdrop of two decades of civil disobedience and refusals to obey federal court orders. In an assessment reminiscent of Charles Warren's description of the importance of the Cherokee-Georgia conflict in 19th century jurisprudence, the Supreme Court in 1979 said no less than this: "The State [of Washington's] extraordinary machinations in resisting the [1974] decree have forced the district court to take over a large

share of the management of the state's fishery in order to enforce its decree. Except for some desegregation cases, the district court has faced the most concerted official and private efforts to frustrate a decree of a federal court witnessed in this century."¹⁰ How is it that some of our most essential books--ones that instruct us on our society's most essential document--are devoid of any mention of this signally important conflict?

Before turning to a more detailed discussion of these issues, I will offer a final preliminary comment--that my remarks are in fact not limited to the teaching of law or constitutional issues per se. Constitutionalism and history blend together here and the concepts I will discuss belong in many American history classrooms as well as in constitutional law classrooms. So in no sense do I mean to be addressing constitutional law teachers only.

Let me deal first with the logistics of including Indian law in the study of constitutional law. In addition to the underlying presentist bias and its factual premise--the incorrect notion that American Indians have or soon will vanish and that Indian issues are of scant importance in modern society--there is a third and final reason why Indian law and policy is not taught in constitutional law or American history courses. Indian law, it is thought, is a complex and technical subject that is difficult to introduce to law students, let alone undergraduates. This is an honest problem, one that should rightly concern conscientious teachers who, after all, are already caught in the press of struggling to cover too much in too little time.

This matter of background coverage can be resolved satisfactorily by a short summary lecture that can be integrated into the substantive treatment of these issues. I will take a minute here to discuss the basic ideas, peculiar to Indian law, that need to be put in place in order to provide a sufficient grounding so that the Indian law cases can be integrated into constitutional law and history.

The Marshall Trilogy

Indian law is constructed on one level by some four hundred federal treaties and literally thousands of statutes, executive orders, and administrative rules. This necessarily creates ample intricacy and opaqueness. But for our purposes this detailed side of Indian law is largely irrelevant. The most important Indian laws are the treaties, statutes, agreements, and executive orders establishing Indian reservations. Most of Indian law and policy is geographically based and these are the basic organic laws defining the nature of law and policy within Indian reservations. These documents are exceedingly general. It has been necessary for the courts to bring specific meaning to these laws by placing them in a larger context of history, policy, and morality. The broad shape of the field of Indian law has been set by a relatively small number of opinions. Even today, perhaps the leading cases are three early opinions by Chief Justice John Marshall. This Marshall Trilogy, as I call it, has been refined by decisions in the century and a half since but, remarkably, the essential principles announced there remain good law today in spite of the societal changes that have made the country over since.

The first decision in the Marshall Trilogy is Johnson v. M'Intosh,¹¹ handed down in 1823. Chiefs of the Illinois and Piankeshaw tribes had deeded away parcels of their aboriginal land to settlers--Johnson and others. Later, the tribes treated with the United States, retaining some land as a reservation but transferring most tribal land, including the Johnson parcels, to the United States. The United States then issued homestead patents to M'Intosh and others for the same land that the tribes had already transferred to the Johnson settlers. The owners of the Johnson parcels sued to establish title based on their prior, tribal deeds.

Chief Justice Marshall's decision is the beginning point for real property law in the United States and is essential to an understanding of the westward expansion. He held that the tribes, due to their possession that predated European settlement by so many centuries, possessed an ownership interest in their aboriginal lands. Their right to occupy, hunt, and fish on that domain was superior to all except the United States, which held a shared title with the tribes and which could obtain tribal title voluntarily by purchase or militarily by conquest. Marshall's federalist philosophy was then applied to the central issue in Johnson v. M'Intosh: although the tribes held an ownership interest in real property, they could not transfer it to anyone but the United States. Thus the tribes' attempted sale to Johnson was void, and the M'Intosh homestead patent was valid because only the later transaction had a federal imprimatur. The ruling stabilized and federalized frontier property law.

The other two cases in the Marshall Trilogy involve the Cherokee-Georgia dispute. The state legislature had passed laws that,

if valid, would have obliterated the Cherokee Nation by outlawing the tribal legislature and courts and by dividing up Cherokee lands among five counties. In 1831, the Cherokee Nation took the unusual step of bringing an original action directly in the Supreme Court, claiming that the Court had original jurisdiction because the the Cherokee Nation was a "foreign nation" and that the Court was empowered to hear original filings in cases between foreign nations and states. The Court ruled against the tribe and dismissed the case, holding that it lacked power to hear the case because the Cherokee Nation was not a "foreign nation."¹²

But, having explained what the Cherokee Nation was not, the Chief Justice went on to explain what the tribe was. The Cherokee Nation did possess governmental powers--it was a "domestic, dependent nation." Further, the Cherokees and other aboriginal peoples had a special relationship with the United States: "The condition of the Indians in relation to the United States is perhaps unlike that of any two people in existence. . . . [T]he relation of the Indians to the United States is marked by peculiar and cardinal distinctions which exist no where else. . . . Their relation to the United States resembles that of a ward to his guardian." This special obligation has come to be called the trust relationship and it is the essential concept that has provided Congress with vast power, for good and for ill, to deal in Indian affairs with a latitude found in few other corners of Congress' store of powers.¹³

The final opinion in the Marshall Trilogy, the 1832 decision in Worcester v. Georgia,¹⁴ is the most expansive of the set. The controversy involved a Georgia law requiring permission from the

Governor for anyone to enter Cherokee territory. The state statute was enacted in spite of the federal Trade and Intercourse Acts, which reserved to exclusive federal authority the power to regulate travel in Indian country.¹⁵

The case arose because two missionaries, Samuel Worcester and Elizur Butler, had refused to comply with the permit requirement and had been sentenced by the Georgia courts to four years of hard labor. Worcester and Butler appealed their convictions to the Supreme Court. Georgia was so contemptuous of the federal treaty and statute, and of asserted federal judicial power, that it refused to file a brief in the Supreme Court or to appear at oral argument. Needless to say, this constitutional, regional, and federal conflict that coincided with South Carolina's Nullification Ordinance and with Andrew Jackson's second presidential campaign fell under the eye of the nation.

In the first Cherokee case, Chief Justice Marshall had been able both to protect the Court's institutional integrity by avoiding a direct conflict with Georgia and at the same time to announce legal principles favorable to Indians by the procedural device of dismissing the Cherokee Nation's case and announcing the special trust relationship in a judicial aside. In Worcester, the Court ruled directly on the legal effects of Georgia's legislative assault and sided with tribal and federal authority.

Chief Justice Marshall's opinion explained that, like Georgia, the Cherokee Nation was a sovereign, too. Indeed, this tribal sovereignty long antedated state or federal sovereignty: Indians had always been "a distinct people. . .having institutions of their own,

and governing themselves by their own laws." To the Court, it was "an extravagant and absurd idea, that the feeble settlements made on the sea coast" somehow gave the Europeans "legitimate power" over the tribal governments. The Europeans treated the tribes with "great solicitude." Similarly, federal treaties did not obliterate tribal governments. As Marshall pointed out, the United States "treat[ed] them as nations." After the treaties, Indian tribes remained "distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States." With this matrix of overriding tribal and federal law, Georgia law could have no place and it was declared unconstitutional.

This mighty opinion, written in the deep heat of one of history's most charged situations, is by any standard one of the great constitutional, moral and political statements ever produced by our jurisprudence. Historians still argue over whether President Jackson actually said the words attributed to him in response to the Worcester decision, but surely he thought them; and surely it can be said, even today, that the words, "John Marshall has made his law, now let him enforce it," continue to epitomize the subtle, fragile, and multi-faceted relationship between the Supreme Court and the presidency.

And even today, although ultimately the force of Worcester must be kept in place by one of our smallest minorities and although the Indian and non-Indian societies at the time of the opinions are all but unrecognizable across the gulf of 150 years, John Marshall's words

are still the law and it is still enforced. To be sure, edges have been carved from the absolute tribal immunity from state law announced in Worcester but most aspects of the immunity remain in force. How is it that the words of one human being can carry so much power across so much time? What are all of the things that make such a thing possible?

Taken together, the concepts embodied in the Marshall Trilogy continue to form the basis of Indian law. Indian tribes possess aboriginal title to their ancestral lands, a property interest embedded at the base of American real property law. Indian tribes are sovereigns, governments with substantial legal and political power over their territory, their people, and, in many cases, people from outside the tribes who enter tribal territory. The United States has broad, almost unlimited, power over Indian affairs. Conversely, the United States has a high trust obligation to Indians. Indian law is federalized.

All of Indian policy must be viewed in the setting of these special principles tracing to the Marshall Trilogy. With variations, they help explain the preoccupation with Indian affairs of the First Congress in 1789 and 1790, when a comprehensive battery of laws was enacted dealing with Indian land transfers, crimes in Indian country, trade with Indians, Indian treaties, and a range of other subjects.¹⁶ They are the premise for the emotional conflicts over authority, finances, and resources now raging across Indian country. They also provide a sufficient basis to analyze the legal and constitutional basis for the several issues that I will proceed to discuss.

I will look at these special principles of Indian law as applied to four broad areas of constitutional law. The first three are traditional categories of constitutional study, the free religion and speech guarantees of the First Amendment; the Due Process and Equal Protection clause of the Fourteenth Amendment; and federal-state authority. The fourth subject is based on geographic regionalism, the impact of Indian law on constitutional law in the American West. In each instance, there are both historical and contemporary ramifications.

Free Religion and Speech

Scholars of history, of course, have given extensive treatment to the intersection of religion and history in Indian affairs. The early Christian missionaries were in effect treated by federal policy-makers as agents of the United States in implementing the civilization policy. There is general agreement as to the importance of the church schools, which received federal funding, in this process of attempting to remake Indians in the image of white society. Similarly, there is deep scholarly treatment of the Ghost Dance movement, begun by the Pyramid Lake Paiute Indian, Wovoka, in the late 1880's. This pan-Indian revival of the old religions through the Ghost Dance produced a skittishness--some might call it paranoia--on the part of federal officials in the field and led to the military quelling of the Ghost Dance at Wounded Knee.

These events offer a worthwhile context for First Amendment analysis. They were justified by military and commercial considerations. They are also explained, of course, by a deep-rooted

ethnocentrism, the kind of motivation against which we expect the First Amendment to operate as a bastion. These incidents afford a fertile basis for comparative analysis with classic First Amendment case studies. Further, government suppression of religion on the reservations and in the schools, and the role of the churches in implementing those programs, ought to promote vigorous classroom debate over whether the nearly unique breadth of the federal power over Indian affairs extends this far.

Modern federal policy concerning Indian religion cuts in the opposite direction. In 1978, Congress passed the American Indian Religious Freedom Act,¹⁷ which sets the goal of protecting and preserving Indian religious freedom. It expressly refers to traditional Indian religions and, among other things, protects "access to sites, use and possession of sacred objects, and the freedom to worship through ceremonies and traditional rites." Is it constitutional to single out Indian religions for protection in this manner? If so, is it wise federal policy?

Due Process and Equal Protection

Civil liberties issues today also arise in regard to the Equal Protection and Due Process clauses in the Fourteenth Amendment, and these are some of the most emotional and troublesome questions in Indian country today. The Supreme Court has held that the restrictions on governments contained in the Bill of Rights and in the Fourteenth Amendment do not limit Indian tribes.¹⁸ That is, those amendments, taken together, apply to state governments and the United States government; they do not restrict tribal power. Thus, in 1896,

the Supreme Court held in Talton v. Mayes¹⁹ that an Indian tribe was not bound by the Fifth Amendment and was not required to provide a grand jury to a criminal defendant in tribal court. More recently, courts have found that the First Amendment's establishment and free exercise provisions do not apply to Indian tribal governments.²⁰

In 1968 Congress passed the Indian Civil Rights Act, which applied many of the provisions of the Bill of Rights and Fourteenth Amendment to Indian tribes.²¹ But rights under the Indian Civil Rights Act differ in several respects from constitutional rights of citizens outside of Indian country.²² The 1968 Act, for example, does not prohibit the establishment of religion. Indian tribes, therefore, are the only governments in the United States that can legally operate as theocracies. Several Pueblos in the Southwest are just that, while other tribes across the country combine republican and theocratic forms of government by having some tribal council members chosen by election and some seats on their councils filled by hereditary chiefs.

Constitutional-type rights under the Indian Civil Rights Act differ in another important aspect. Under the reasoning in the 1978 decision, Santa Clara Pueblo v. Martinez,²³ ICRA rights generally can be enforced only in tribal forums, not in federal courts. Thus if Indians have a grievance against their tribal government, they often lack recourse outside of the tribe. In short, a tribal council is prohibited by the free speech clause of the 1968 Act from shutting down an opposition newspaper, but tribal forums--a tribal judge or the council itself--will interpret and implement that free speech guarantee and will decide if the newspaper continues.

These issues become magnified when non-Indian are involved, as has occurred at an accelerated pace since the 1960's when tribes began to reassert their sovereign powers. The Supreme Court ruled in 1978, in Oliphant v. Suquamish Indian Tribe,²⁴ that Indian tribes lack criminal jurisdiction over non-Indians. Tribes do, however, possess civil authority over non-Indians when necessary to implement an important tribal interest.²⁵ This means that in many circumstances tribal governments can, and do, try non-Indians in tribal courts in civil matters such as automobile accidents and contract disputes; regulate non-Indian reservation businesses; and zone non-Indian land located within tribal boundaries. In most situations, these decisions will be made by members of one race--Indians--against persons of other races. Federal judicial review is limited, and decision-making by tribal forums is emphasized, under the Indian Civil Rights Act of 1968.

This race-based governmental system has been upheld by the Supreme Court, which has gone to considerable lengths to find that tribal governments are not in fact race-based. The Court has concluded that political ties were established, usually by treaty, between the United States and tribal governments. This government-to-government relationship means that Indian tribes are recognized under federal law as political and governmental, not racial, entities.²⁶ Indian tribes, in other words, are both pre-constitutional and extra-constitutional.

All of this creates vital classroom sessions on civil liberties. John Hart Ely's influential book, Democracy and Distrust,²⁷ argues that the essence of the Constitution is not substance but rather an

open process that keeps all of the channels of representation open to diverse groups in order to produce truly democratic results. Yet these Indian governments, whose leaders are elected by a racially defined electorate, are outside of the system of constitutional restraints. How does all of this square with Ely's process theory and with other conceptualizations of constitutional government and basic civil liberties in the United States?

I will offer one final context in which Indian law and policy energizes analysis of civil liberties issues. In 1954, Brown v. Board of Education²⁸ rejected the "separate but equal" doctrine and outlawed racial segregation in public schools. But Indian reservations are plainly racial enclaves where separatism prevails. On many reservations even the schools are effectively segregated.

This gives us a deeper insight into the anti-discrimination principle of the Constitution. Separatism for blacks was outlawed because it was forced upon them and because it demonstrably operated to their disadvantage. Indian separatism is allowable because Indians are separatists by choice, because most Indian leaders have voluntarily selected a measured separatism as the single best hope for the future of Indian people. Without the Indian experience, we are led to believe that our Constitution outlaws separatism; with it, we learn that the essential prohibition is against forced policy that wounds minorities. Numerous aspects of federal policy have wounded Indians but separatism is not one of them and thus it does not offend the Constitution.

Federal-State Conflicts

We now accept, based on the body of law that has developed since 1937, the idea that Congress has expansive authority to preempt (i.e., oust or override) state laws.²⁹ The Supremacy Clause makes any valid federal law superior to a conflicting state law. Several constitutional provisions, most notably the Commerce Clause, provide ample basis for a far-ranging congressional authority to preempt state laws in most subject matter areas.

Of course, it was not always this way. And, of course, modern concepts of Congressional authority do not trace just to 1937. The origins of federal plenary power in the Supreme Court decisions are found in the Marshall era. The Marshall Trilogy is central to this. Indian policy, along with shipping³⁰ and banking,³¹ are the areas in which plenary federal power was first asserted, and first upheld by the Court, in derogation of state authority. Further, when the federalist view waned after Roger B. Taney replaced Marshall as Chief Justice, the Court continued to recognize an expansive federal power over Indian affairs, one of the few fields in which federal preeminence was acknowledged.³² So there is a legitimate place for Indian law in the historical development of federalism and preemption.

The Indian cases continue to be important in Supreme Court preemption law. Even though it is accepted that Congress can override state law, it is often difficult to tell from the face of a particular federal statute whether Congress has actually intended to exercise its broad power to preempt state law. Normally, the Supreme Court presumes that Congress has not intended to override state law unless it does so in a reasonably explicit manner.³³ In the case of Indian law, however, the special traditions in the field are such that the

Court has developed an opposite rule: state laws presumptively do not operate in Indian country unless Congress expressly has allowed state law to apply. This rule sharply limits the powers of state courts and legislatures within Indian country in key areas such as taxation, land use controls, business regulation, and environmental protection.³⁴

The special rule for preemption in Indian law is relevant for two reasons. First, Indian law is a surprisingly large segment of the Supreme Court's work. Over the last 25 years the Court has handed down over seventy Indian law cases. The pace has been especially swift since 1970, a time during which the Court has handed down more Indian law decisions than in established fields such as antitrust, securities, environmental, or international law. Thus the special Indian law rule on state power is significant in its own right. Further, the Indian preemption cases are a fit reminder that constitutional adjudication is not monolithic and that special rules sometimes must be developed to fit the particular history and circumstances of a discrete body of policy.

The Impact of Indian Law on Constitution Law in the American West

Finally, I would like to discuss the impact of Indian legal issues on the American West.

Regionalism is a major force in both American history and literature. On the other hand, we think of law as existing mainly at the federal and state levels, not regionally. In fact, however, we have instances of regionalism in the law. One notable instance is the desegregation struggle, which focused on the South. An even better

example is what can be called the Law of the American West, an amalgam of water, mining, public land, Indian, and constitutional issues that arise most often in the arid western states with large concentrations of federal and Indian lands.

Indian law is central to the Law of the American West. A major constitutional development--the carving of new western states from the public domain to implement the westward expansion--cannot be fully understood without an appreciation of the role of Indian policy and law. The Marshall Trilogy established that Indian tribes, as governments, possessed a right of occupancy in their aboriginal lands; the westward expansion could not be consummated under the property law of the United States until questions of Indian title were resolved. Thus in most instances it was necessary to negotiate Indian treaties before statehood. When that was not done, as when Alaska became a state in 1959, development was thrown into question until the 1971 settlement with the Natives, a massive transaction involving the transfer of 44 million acres and \$1 billion to Alaska Natives pursuant to the Alaska Native Claims Settlement Act.³⁵

Political and constitutional power in the western states, then, must be placed in the context of the three landed sovereigns, the United States, the states, and the tribes. The tribes had prior rights. Then the United States acquired some, but not all, tribal political and property rights. In the treaties the tribes retained some lands--homelands--as reservations. The subsequent creation of new states by the statehood transactions, then, logically would deal only with the lands that had not previously been set aside for Indians. At that point, representatives of these future states

bargained for the transfer of as much federal land as they could manage.³⁶

These arrangements, which provided for Indian reservations and the retention of most lands in federal ownership, explain the division of land in the West among the United States, the states, and the tribes, who own about 5% of all land in the eleven western states in addition to the extensive Native land holdings in Alaska. This progression of events also helps explain the continuing separatism, in a constitutionally egalitarian nation, of Indian tribes today.

The special status of Indian tribes raises particularly acute questions in regard to western natural resources. The Court has upheld extraordinarily favorable distributions of these resources to Indian tribes. Winters v. United States,³⁷ in 1908, and Arizona v. California,³⁸ in 1963, both recognized extensive Indian reserved water rights, outside of state water law, under dint of federal and tribal authority. Water, because of its scarcity in the American West and its importance to most forms of economic development, is especially controversial and the question of Indian water is one of the foremost policy issues in the region. Somewhat similarly, in 1979 the Supreme Court upheld the right of tribes in the Pacific Northwest to harvest up to 50% of the valuable salmon and steelhead runs.³⁹ Tribes also possess important deposits of oil, gas, and coal.

All of these decisions, and others involving western resources, had to be made in the face of impassioned opposition based on states' rights and equal protection. Indians, it has been widely claimed, are "supercitizens" who have been allowed to operate outside of the state

laws applicable to other citizens and to benefit from reverse discrimination based on race.

The Supreme Court's response has been the doctrine discussed above in another context, that the treaties are based on the governmental status of tribes, not on race. But students should be challenged to reason through these issues to reach their own judgments on whether the distinction between Indian governments and Indian individuals is arbitrary and superficial, and on whether this special, separate treatment is wise national and regional policy.

Conclusion

I will reemphasize that integrating Indian constitutional law into constitutional law poses legitimate problems. There is the matter of entry--we cannot escape the necessity to provide students with some background material on Indian law and history. Indian issues cannot be treated in a vacuum and yet creating the context imposes some degree of burden on textwriters, teachers, and students. Further, there are other specialized fields of policy and law that can make somewhat similar claims for inclusion in constitutional law courses. Copyright law, maritime law, and immigration law come to mind. Obviously, all of this cannot be done. There are limits of time and coverage. Finally, Indian issues have their greatest current impact on the American West and there is an argument that students at eastern schools would have a relatively low level of interest.

Still and all, the truer course is to grant Indian issues their rightful place in the constitutional law and history curriculum. I simply defy anyone to build a principled argument for the notion that

the Cherokee cases--and the literally epochal controversy that surrounded them--should be excluded as principal cases from the constitutional law texts. The Cherokee-Georgia episode raises classic historical, institutional, and constitutional issues with all the drama and intellectual dynamism that our society can infuse into a set of confrontations and resolutions. These cases belong in the company of the Dartmouth College Case, Gibbons v. Ogden, and Marbury v. Madison itself, a conclusion proved out in part by the fact that modern courts have cited the Cherokee cases nearly as often as the great cases just mentioned.⁴⁰

Indian law bears on the other constitutional issues I have raised in a somewhat different way. Indian cases are not essential to a balanced treatment of freedom of religion, equal protection, or modern preemption law. But the infusion of Indian law will enrich those areas demonstrably, and will breed stimulating debate based on the vivid and unique examples that Indian policy can provide. Further, since the Cherokee cases and a summary of the special features of Indian law and history will already have been presented earlier in the text, the students will be prepared to confront the enrichment issues just mentioned without additional background work.

To be specific, then, my judgment is that the Cherokee cases should be accorded roughly twenty pages in any undergraduate, graduate, or law school text on constitutional law or history. No more than five pages should be devoted to a summary of Indian law and policy. The build-up to the court cases should be presented. The Cherokee Nation and Worcester cases should both be included as principal cases, totalling ten pages or so. The Cherokee-Georgia

segment should be concluded with the aftermath of the decisions. The materials on the other issues I have discussed should be placed with the appropriate subject matter at four or five places throughout the text. ' These subjects need not necessarily be treated as principal cases, but including these enrichment issues in the text will allow interested instructors to raise them in class. This approach meets three primary objectives fairly warranted by the nature of Indian law within constitutional law: it recognizes, but does not overemphasize, the legitimate constitutional implications of the field of Indian law; it presents Indian issues in both an historical and a contemporary context; and it integrates Indian constitutional issues into the larger body of constitutional law.

None of this is premised on any kind of a patronizing or romantic view of Indian issues. Indeed, the bottom reason that Indian issues are at least as relevant in the United States today as they were one hundred years ago is that Indian people themselves have dug in, have insisted on choosing a measured separatism over assimilation, and have continued to press for their very existence as a discrete race. They, not white society, have dictated their place in constitutional law and history.

Ultimately, then, the reasons for recognizing the place of Indian law in constitutional law are intellectual and academic. Our law of a century and a half has agreed that Indian tribal sovereignty reaches back into the mists farther than most of us can conceive. Remarkably, that aboriginal authority, and the property rights that complement it, continue to have ramifications in this modern society. Indian law is a blend without peer of history, constitutional law, anthropology,

international law, and political science. We lose far too rich an opportunity when we deprive ourselves, our students, and our disciplines of it.

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FOOTNOTES

¹M. Shapiro & R. Tresolini, American Constitutional Law v (McMillen Publishing Co.; 6th ed., 1983).

²On the revival of Indian tribal governments during modern times, see generally Indian Self-Rule: Fifty Years Under the Indian Reorganization Act (Howe Brothers; K. Philp ed., 1985).

³31 U.S. (6 Pet.) 515 (1832).

⁴On legal aspects of the Cherokee-Georgia conflict, see Burke, The Cherokee Cases: A Study in Law, Politics, and Morality, 21 Stan. L. Rev. 500 (1969).

⁵A review of Shepard's Citations shows that the only cases cited since 1970 by state and federal courts more often than Worcester are Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803); McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819); and United States v. Perez, 22 U.S. (9 Wheat.) 579 (1824). This means that today's courts have turned to Worcester more often than to such leading cases as Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819), Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824), and Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304 (1816).

⁶Williams v. Lee, 358 U.S. 217, 219 (1959).

⁷2 C. Warren, The Supreme Court in United States History 189 (1923).

⁸Merrion v. Jicarilla Apache Tribe, 455 U.S. 130 (1982); United States v. Wheeler, 435 U.S. 313 (1978). The leading treatise on Indian law is F. Cohen, Handbook of Federal Indian Law (Michie

Bobbs-Merrill, 1982 ed.). For an excellent summary account, see W. Canby, American Indian Law in a Nutshell (West Publishing Co.; 1981). The two casebooks are D. Getches, D. Rensenfelt & C. Wilkinson, Cases and Materials on Federal Indian Law (West Publishing Co.; 1979) (with a 1983 supplement) and M. Price & R. Clinton, Law and the American Indian (Michie Bobbs-Merrill; 1983).

⁹ See generally American Friends Service Committee, Uncommon Controversy (University of Washington Press, 1975).

¹⁰ Washington v. Passenger Fishing Vessel Association, 443 U.S. 658, 696 n.36 (1979).

¹¹ 21 U.S. (8 Wheat.) 543 (1823).

¹² See Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831).

¹³ On federal power in Indian affairs, see F. Cohen, *supra* note 8, ch. 3.

¹⁴ 31 U.S. (6 Pet.) 515 (1832).

¹⁵ On the early Trade and Intercourse Acts, enacted between 1790 and 1835, see F. Prucha, American Indian Policy in the Formative Years (University of Nebraska Press; 1970).

¹⁶ *Id.*

¹⁷ 92 Stat. 469, Pub. L. No. 95-341 (Section 2 codified at 42 U.S.C.A. §1996).

¹⁸ Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978); Talton v. Mayes, 163 U.S. 376 (1896).

¹⁹ *Id.*

²⁰ See, e.g., Native American Church v. Navajo Tribal Council, 272 F.2d 131 (10th Cir. 1959).

²¹ 25 U.S.C. §1301-03.

²²See generally F. Cohen, *supra* note 8, ch. 12E.

²³436 U.S. 39 (1978).

²⁴435 U.S. 191 (1978).

²⁵See, e.g., Montana v. United States, 450 U.S. 544 (1981);
Merrion v. Jicarilla Apache Tribe, 455 U.S. 130 (1982); Knight v.
Shoshone and Arapahoe Indian Tribes, 670 F.2d 900 (10th Cir. 1982).

²⁶See, e.g., Morton v. Mancari, 417 U.S. 535 (1974); Washington
v. Passenger Fishing Vessel Association, 443 U.S. 658 (1979).

²⁷J. Ely, Democracy and Distrust (Harvard University Press;
1980).

²⁸347 U.S. 483 (1984).

²⁹See, e.g., Katzenbach v. McClurg, 379 U.S. 294 (1964); National
Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U.S. 1
(1937).

³⁰See, e.g., Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824).

³¹See, e.g., McCulloch v. Maryland, 17 U.S. (4 Wheat.) 579
(1819).

³²See, e.g., United States v. Kagama, 118 U.S. 375 (1886); United
States v. Sandoval, 231 U.S. 28 (1913).

³³See generally Note, The Preemption Doctrine: Shifting
Perspectives on Federalism and the Burger Court, 75 Colum. L. Rev. 623
(1975).

³⁴See generally F. Cohen, *supra* note 8, ch. 5B.

³⁵43 U.S.C. §1601-1628. See generally M. Berry, The Alaska
Pipeline: The Politics of Oil and Native Lands (Indiana University
Press; 1975).

³⁶On the nature of the statehood transactions, see generally P. Gates, The History of Public Land Law ch. 13 (Government Printing Office, 1968).

³⁷207 U.S. 564 (1908).

³⁸373 U.S. 546 (1963).

³⁹Washington v. Passenger Fishing Vessel Association, 443 U.S. 658 (1979).

⁴⁰See note 5, *supra*.

2-01

The Native American Rights Fund

Comments by Deana Harragarra Waters, Law Librarian

Native American Rights Fund, National Indian Law Library

The Native American Rights Fund began as a pilot project of California Indian Legal Services in 1970. California Indian Legal Services is one of the government funded legal services programs established as part of the "War on Poverty" which was launched in the 1960's. These programs were intended to provide to poor and disadvantaged people access to lawyers and the legal process. As these programs began working with Indian legal problems, they soon came to learn that Indians and their problems were, for the most part, governed and controlled by a specialized area of the law known as "Indian law." Indian law is a complex body of law composed of hundreds of Indian treaties and court decisions, thousands of federal statutes and regulations and administrative rulings. As the Indian legal services lawyers began to study and apply Indian law in representing their Indian clients, successes in the courts greatly increased.

In 1970, the Ford Foundation, instrumental in the development of the NAACP Legal Defense Fund and the Mexican American Legal Defense Fund, became interested in establishing a national legal program for Indians. The Ford Foundation first sought an ongoing program which had already proven itself successful in litigating Indian rights. With Ford Foundation funding, California Indian Legal Services agreed to institute a small pilot project enabling it to expand their

services to Indians on a national basis. That project became known as the Native American Rights Fund.

The Native American Rights Fund's growth and success throughout these past fourteen years is attributable entirely to the validity of the original concept upon which it was founded. There is a great need for a national Indian rights organization to provide legal representation to tribes, to protect their rights, and to address their major legal problems. At the heart of this need is the common goal of all Native American groups, to preserve their status as Indian tribes and to maintain their traditional way of life.

Consistent with the philosophy of Indian self-determination, the Native American Rights Fund is governed by a Steering Committee composed entirely of Indian people. This all Indian board controls the Native American Rights Fund's activities by setting the priority and policies. Membership is based on individual involvement in Indian affairs, knowledge of the issues and tribal affiliation for a wide geographical representation. The current Steering Committee is composed of the following: Chris McNeil, Jr. (Tlinigit), Bernard Kayate (Laguna Pueblo), Leonard Norris, Jr. (Klamath), Norman Ration (Navajo-Laguna Pueblo), Kenneth Custalow (Mattaponi), Gene Gentry (Klamath), George Kalama (Niqually), Wayne Newell (Passamaquoddy), Christopher Peters (Yurok), Lois Risling (Yurok), Wade Teeple (Chippewa) and Harvey Paymella (Hopi-Tewa). It is the philosophy of the Steering Committee to keep the Native American Rights Fund as apolitical as possible and to concentrate on issues which will be of lasting benefit to all tribes.

The Steering Committee, in setting priorities governing the Native American Rights Fund's involvements has placed tribal existences as the first priority. Under this priority, the Native American Rights Fund works to enable tribes to continue to live according to their native traditions, to enforce their treaty rights, to insure their independence on reservations, and to protect their land. The Native American Rights Fund's activities under tribal existence designation fall into four categories: restoration and recognition for tribes; tribal sovereignty issues including tribal jurisdiction and taxation rights; enforcement of treaty rights; and upholding the federal trust responsibility.

The second priority, the protection of Indian natural resources is the key to tribal economic development and self-sufficiency. Unfortunately, questions over tribal ownership and control occur more frequently with Indian resources than in the non-Indian society. This is a result of the failure of the federal government to fulfill its trust duty to protect the Indian tribes and their property rights. Natural resource ownership questions are therefore a legitimate concern to the Native American Rights Fund in responding to major Indian legal needs. For decades, the federal government refused to deal adequately with protecting Indian resources. However, Indian tribes, contrary to the expectations of many in the last 100 years, are not disappearing but are becoming a permanent part of the American system. Over the years that the Native American Rights Fund has been involved in the Indian natural resource field, the four main areas of concern that the Native American Rights Fund has been involved in are

land rights, water rights, mineral rights, and hunting and fishing rights.

The third priority, the Native American Rights Fund is concerned with is securing basic human rights for Indians in areas of religious freedom, education, health, housing, welfare and the rights of Indian inmates.

The fourth priority is the accountability of the dominant society to Indians. Not only is the federal government accountable to Indians for carrying out its trust responsibilities, but states and municipal governments are equally bound to recognize and honor the unique federal rights and immunities of the tribes and Indians within their respective borders.

The fifth priority is the proper development of Indian law which is essential for the security of Indian rights. This involves not only the establishment of favorable court precedents in critical areas of Indian law, but the distribution of information and materials to all others working for Indian rights.

The National Indian Law Library is a special project of the Native American Rights Fund. It was established in May 1972 with a three-year development grant from the Carnegie Corporation of New York. The Library's main purpose is to serve as a national clearing-house for attorneys and scholars working in the area of Indian law.

The recognition of a need for the National Indian Law Library came from the practical experiences of the Native American Rights Fund attorneys and others in the field. They found that the standard commercial reporting systems employed indexing systems that failed to reflect major portions of this specialized law, and therefore no

method for keeping up-to-date in the rapidly growing field. Further, many who were working on reservations and in rural Indian communities lacked access to law libraries and other legal resources. Until the National Indian Law Library was established, there was no center where current litigation in Indian law was being collected, catalogued and made available to attorneys.

What is an Indian?

America is not just a pale reflection of Europe, what is unique about America is Indian, through and through. What is an Indian? There is no single definition of the word. In Felix Cohen's Handbook of Federal Indian Law (1982 edition) Indian is defined as a person meeting two qualifications: (1) that some of the individual's ancestors lived in what is not the United States before its discovery by Europeans, and (b) that the individual is recognized as an Indian by his or her tribe or community. In the United States Code, title 25 section 479, Indian is defined as all persons of Indian descent who are members of any recognized Indian tribes now under Federal jurisdiction and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation and shall further include all other persons of one-half or more Indian blood. To further complicate the definition, each Indian tribe makes the determination of eligibility for tribal enrollment, but do not determine which persons are Indians, only which persons are tribal members. Indians have a tendency to refer to themselves by their tribe, nation, band or pueblo. In my situation, my mother is

Kiowa and my father is Otoe-Missouria, which is more descriptive than the term Indian. In August 1975 to August 1976, my experience as Miss Indian America led me to believe in many aspects Indian was a state of mind rather than a mere blood quantum.

The difficulty of the term "Indian history" is the association of Indians with past events, or history, and the failure to realize that Indians are alive and living today complicated further by the word "Indian" evading definition. To properly understand Indians, and to understand their history, one should have an Indian experience. I am a rich individual, rich in that I experienced the dedication and love of my Kiowa grandparents. My grandfather, Lewis Toyebo, was born on the banks of the Washita River, which runs through present day Anadarko, Oklahoma, in 1892. My grandmother, Richenda Sitapatah Toyebo, was born west of Carnegie, Oklahoma, in 1894. My grandfather is still alive; he is history, having been born in one century and living well into another century. The uniqueness of being a Kiowa is the devotion of one's grandparents. My own grandparents took the time to share with us stories of a Kiowa trickster named Sayn-day. The Kiowas believe that Sayn-day made the world the way it is today. He made good things and he made bad things, and when his work was finished, he went away. There are certain rules for telling Sayn-day stories: (1) always tell them in the night time when the day's work is finished, (2) always tell them in the wintertime, and (3) always begin each story with "Sayn-day was coming along." These stories are told only from grandparent to grandchild, so for this telling, I am your grandmother and you are my grandchildren. However, I don't expect to be a good storyteller until I am a Kiowa grandmother myself.

Sayn-day was coming along one day and the sun was high in the center of the sky. It was hot and time for Sayn-day to eat; he was always hungry. Walking along the hot prairie, he had no idea where his next meal was coming from, but it didn't bother Sayn-day. He heard singing and walked in the direction of the singing. Sayn-day came upon a prairie-dog town, and all the prairie dogs were outside their hole dancing. You see, prairie dogs thought they were the best dancers in the whole world. Sayn-day went over to the oldest prairie dog and told the old prairie dog that he knew a song and dance that would make the prairie dogs the best dancers in the world. Sayn-day convinced the prairie dogs to learn a new dance, while Sayn-day would do the hard work, that of singing the song. Sayn-day warned them not to peek. And so all the prairie dogs in a huge circle with their paws over their eyes began to jump up and down when Sayn-day started singing. The song Sayn-day sung is translated as such, "Prairie dogs wag, you tailed prairie dogs. Wag your tails and dance." At the end of each verse, Sayn-day would make a short yell and hit a prairie dog on the head killing it. But the prairie dogs had no idea they were being killed because every one of them had their eyes closed. Every one except a little girl prairie dog. She didn't like the looks of Sayn-day so she didn't listen to him, and she peeked. She saw that Sayn-day was killing all the prairie dogs, and when Sayn-day got close to her, the prairie dog ran into her hole in the ground. That's why, the Kiowas believe, we still have prairie dogs to this very day, because that one girl prairie dog got away from Sayn-day.

Life experiences like the one just related have led me to another definition of Indian. You know you're Indian, if you think your grandparents are the greatest people in the world.

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Remarks in Response to Charles F. Wilkinson's Paper:
Indian Law as Foundational Elements in Constitutional Law and Theory

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As the historian on this panel, who has for many years taught Constitutional, and more recently legal history, I would like to first draw a few historiographical distinctions before getting into content. The first is simply to acknowledge and emphasize for the group some problems between history and law. Frederick Maitland, the great English constitutional historian once argued that the professional objectives of lawyers and historians are incompatible. As a result there are two competing traditions, each claiming guardianship over an authentic legal history. Legal historians, trained primarily in the law school approach, emphasize the continuity of doctrinal or institutional development from past to present, with the result that they often characterize past law as a minituration of present practice. This further leads to a general argument that law is very separate from polity considerations and economic and social factors. Further, their evidence is generally drawn from case law, statutes, constitutions, and legal treatises.

Ph.D. legal historians, trained in history departments, go the other way. They urge the law's demystification, emphasize discontinuity, stress the vital role of other considerations which impact on law, political, economic, and social. They see judges as politicians in black robes and law as partially rationalization for actions people

want to take. In this regard, legal experience merges with content and loses its apolitical identity. But the traps for these historians are their tendency to politicize, rush into theories of politicization or democratization, or modernization and suggest that all law is self-interest. The point for us is, then, that this helps to dichotomize the two kinds of legal history in yet another way. But it also raises the broader question of how much in the way of the traditional Ph.D. legal history approach the historian of the law has to accept, how much discount, and how much reject, since these lawyer-historians really reach conclusions based upon a highly limited and detached and sterile view of the legal process. Further, they see Indian legal history as white actors making policy, rules, and decisions regarding Indians. Conversely, while formal legal documents have their limits, they do have to be taken seriously, and this is where lawyers and judges start. But this does not mean that we Ph.D.'s have to take the legal historians' versions of their meaning and their implications.

I sound this cautionary note because what I think we should be doing is figuring out ways that we can draw from both approaches, with the purpose in mind not of winning law units or of analyzing legal process, but of enriching the historical record and making the historical story more accurate, more perceptive and more honest. Historians deplore and frequently denigrate legal and judicial procedure as a form of "games lawyers play," with only lawyers making up the rules and only the lawyers able to win. Lawyers rebuke historians for their overgeneralizing based upon an inaccurate consideration of the precise facts of the circumstance. In so doing they keep us honest enough,

though they frequently do not understand that our purpose is to see the big picture, to make sense of it, and, to use a trite old phrase, some way to learn from the lessons of history.

What I would like to do is talk about an episode I have been researching for some time and speculate both on how context and especially constitutional context affected legal development. Secondly, I would like to comment on how that legal development was received and what effect it had upon broader policy actions, and upon the people (in this case the Indians) who were suddenly subject to new legal rules. Those rules were incorporated in the congressionally enacted Indian Bill of Rights, sometimes referred to as the Indian Civil Rights Act of 1968. This measure is mentioned in no United States text, or for that matter in any constitutional or legal text, including, I am chagrined to say, my own.

Let me start with the obvious; that historical ambiance or, if you prefer, the Zeitgeist affected legal development, as it applied to Indians in the 1930's, 1950's, 1960's and 1970's (keeping in mind that recent U.S. history is organized this way, as a device for understanding). In the 1930's, we are familiar with the Indian Reorganization Act of 1934. From a legal standpoint, it is well to zero in on Section 16 of that measure. This contained provisions designed to restore the status and authority of tribal governing bodies, with the hope that such restructuring would revitalize them. Pursuant to this measure, tribes who voted to accept the I.R.A. (done by a referendum vote conducted on the reservation) were given the option of adopting written constitutions to reorganize their governing structures. The Secretary of the Interior was empowered to call special tribal

elections for the purpose of ratifying such documents. Each constitution adopted in this manner became effective when approved by the Secretary who was also given the discretion to approve any subsequent constitutional amendments.

Section 16 was silent, however, concerning the procedures for drafting constitutions and the governing structures to be established thereby. It specified only that each constitution must contain certain tribal prerogatives usurped during the allotment era,¹ as well as "all powers vested in any Indian tribe or tribal council by existing law." Some 67 tribes had adopted written organic documents prior to 1934. However, for most of those tribes, as well as for the majority of Indians functioning without such documents, operational constitutional government was a novel experience. This inexperience, combined with a lack of access to necessary legal assistance left few tribes in a position to develop their own constitutions. And certainly, despite some sentiment in that regard, it did not lead to the reinstituting of traditional law on the reservations. Consequently, the Interior Department prepared a model constitution. The boilerplate provisions of this model were adopted with few alterations by virtually all tribes which voted to organize under the Act. Subsequently 191 tribes voted to accept; 71 voted to reject.

¹These prerogatives of the I.R.A. constitutional tribes included employment of legal counsel subject to Secretarian approval; veto power over any federal disposition of tribal lands or assets; authority to negotiate with federal, state, and local governments; and the right to be advised by the Secretary concerning federal budgetary items or projects benefiting the tribe.

Generally, the standardized constitutions provided that the tribal council should by ordinance establish a court system and adopt judicial codes, thus subordinating tribal judiciaries to council authority. The constitutions did not spell out either the structure or procedures of potential court systems, however, and due to the erosion of traditional law and judicial mechanisms, the only visible models available to most tribes were the Courts of Indian Offenses and the Secretary's limited regulations.

In 1935, the Interior Department issued a revised set of rules concerning operations of the C.I.O.'s and Indian police. This led the councils of many I.R.A. constitutional tribes to establish courts and adopt judicial codes. Again, however, virtually all of these tribal codes were copied verbatim or patterned to a considerable extent upon the new departmental rules. Since many tribes also continued to receive federal funding for their Indian judges, the judicial appointment and removal provisions of these rules were incorporated into tribal codes. Thus, although the tribal courts established by these codes were legally tinct from the C.I.O.'s in terms of structure and procedures, the two systems were practically identical.

The new long-range result has been that since the I.R.A. tribes have tended to develop codes and thereby convert from C.I.O.'s to tribal courts, which operate under the residual sovereignty of the tribe, rather than agencies of the federal government.

The results of these developments in practice were again somewhat varied. Under the new system, tribal leaders in the tribal councils tended to assume new powers, and, as the conduit of federal programs and the dispenser of patronage, these leaders came to form power

structures, which on many reservations rivaled the traditional hereditary and religious leadership. The resulting tensions led to frequent charges that elected governments on certain reservations acted repressively toward the "traditionals" and others who opposed them. Sometime, it was also charged, this was done with the collusion of the federal government. Whether true or not, the results certainly indicated a lack of uniformity across the board nationally as to the functioning of tribal councils and tribal courts. Justice tended to be "individualized," and political considerations frequently played a role. In areas where such government proved to be particularly repressive, a pattern emerged of disaffected individual Indians trying hard to gain federal court review of actions done pursuant to tribal authority. Some sought to sue the tribe directly as an institution existing under color of state law; other sued tribal leaders, as well as the Secretary of the Interior. In practice, however, only those instituting habeas corpus proceedings were ever successful in securing federal court jurisdiction.

Partly as a result of these actions and the poor image they projected of the arbitrariness of tribal leadership, a number of tribes began adding Bill of Rights provisions to their tribal constitutions. Of these 117 had emerged by the early years of the 1960's.

Certain specific developments in the 1950's may well have spurred this process. Generally that decade was one of sharp regression from the previous dozen or so years of renewed tribal self-determination. Leaders in the Eisenhower administration and in the Congress called for the "termination" of economically self-sufficient tribes, ending further federal services to them, but also ending federal recognition

of tribal governments and tribal immunity from state taxation. More specifically, Congress in 1953 passed Public Law 280 (67 Stat. 588-590) mandating the transfer of civil and criminal jurisdiction over reservation Indians to the state in five states: California, Oregon, Nebraska, Minnesota and Wisconsin. The policy was based largely on the desire for federal government economy, but was strongly opposed by Indian people and ultimately by others as its implications became clear. It proved a threat to programs which were beneficial and protected the cohesiveness of Indian societies. Most specifically, tribal leaders as well as rank and file Indians feared the greater loss of rights if state court jurisdiction was extended over the reservations, as the experience of Indians with such bodies was an unhappy one with regard to the type of white justice the Indian could expect to receive in them. Such a concern had the further detrimental effect of channeling Indian energies into forms of opposition to the extended application of such federal policy rather than into efforts to further develop the quality of tribal government. Thus the decade saw little or no code reform, failure to train tribal court personnel, and substantial lack of concern for development of better court systems and facilities. In fact, that would have gone against the general policy which was to undermine Indian autonomy in this area.

It was in this context that several significant lower federal court rulings propelled certain dimensions of the Indian situation into public consciousness. In 1954 a federal district court in New Mexico held that the First Amendment did not apply to the Indian tribes. The case involved an Indian pueblo which had refused to allow any but followers of the Catholic religion to be buried in its

cemetery. It further refused to admit Protestant missionaries to the pueblo and had denied Protestants the right to build a church (Toledo v. Pueblo De Jemez, 119 F. Supp. 429 D. NM, 1954). The implications of the ruling were clear. Dissenters from tribal religious policy had no federal constitutional remedies with which to oppose that policy. Four years later, a circuit court in Nebraska held that the fifth and the fourteenth amendments were not to be obstacles to the legislative actions of Indian tribes. Here, a tribal taxing ordinance was involved. But the court refused to measure the ordinance as applied to non-members of the tribe by the constitutional standards which would apply to federal and state governments (Barta v. Oglala Sioux Tribe, 259 F. 2d 553 8th Cir. 1958).

But the case which drew the most attention involved the Native American Church. The organization, operating on a Navajo reservation, was heavily involved in the use of peyote, a hallucinogen derived from cactus plants. Navajo tribal rulers outlawed the sale, use, or possession of peyote. The Native American Church, constantly at odds with the tribal council, sued the council in the U.S. Court of Appeals for an injunction against the tribal council's regulations. It was the contention of the Church that "in the absence of an express inclusion of peyote in the federal narcotic laws, the Navajo tribal ordinance prohibiting its use was actually an abridgment of religious freedom rather than a protection against harmful drugs." (Native American Church v. Navajo Tribal Council, 272 F. 2d 131 10th Cir. 1959).

However, the Church lost the case because the federal court disclaimed the right to intervene in tribal judicial matters in this area. More explicitly, the Native American Church's appeal was dismissed because

the Indian did not have standing to sue for rights of religious freedom that, for them, did not exist. The court explained it thus:

The First Amendment applies only to Congress. It limits the power of Congress to interfere with religious freedom or religious worship. It is made applicable to the States only by the 14th Amendment. Thus construed, the First Amendment places limitation upon the actions of Congress and of the States. But. . .the Indian tribes are not states. . .It follows that, neither under the Constitution, or under the laws of Congress, do the federal courts have jurisdiction of tribal law or regulations, even though they may have an impact to some extent on forms of religious worship.

Such was the "constitutional rights" position of the American Indian as the courts described it in the anti-civil liberties climate of the 50's.

These rulings proved to be of particular interest to a prestigious group of Americans who happened, just at that time, to be looking into the status of Indians in America.

The passage of Public Law 280, with its termination thrust, had led to demands for an up-to-date appraisal of the status of the Indians. As termination began to be a troubling reality for tribes such as the Klamath of Oregon and the Menominee in Wisconsin, the Fund for the Republic established a Commission on the Rights, Liberties, and Responsibilities of the American Indian in March, 1957. That Commission held a long series of meetings and investigations, commissioned special studies, and produced a final report early in the 1960's. (William A. Brophy and Sophie D. Alberle, The Indian: America's Unfinished Business, 1966). By the time the report was made public, a Department of the Interior Task Force on Indian Affairs had also issued a report, which addressed complaints from both Indians and non-Indians of denials of constitutional safeguards. That Task Force had accordingly urged the Secretary of the Interior and the respective

tribes to require these protections in the Indian courts. The Fund for the Republic Commission's Report was even more forthright. It stated:

No government of whatever kind should possess the authority to infringe fundamental civil liberties; government itself must ever be subject to law. Freedom of religion, utterance and assembly, the right to be protected in one's life, liberty and property against arbitrary power, and to be immune from double jeopardy and bills of attainder, and the guarantee of a fair trial are not privileges--they are minimum conditions which all Americans should enjoy. For any tribe to be able to override any of them violates the very assumptions on which our democratic society was established. Moreover, the absence of these safeguards will retard the economic development of reservations, since business concerns are not likely to risk their capital when confronted with the possibility of unjust taxation, regulation, or similar oppressive measures. Efforts to induce the courts to reconsider the decisions denying basic civil protection will undoubtedly continue, but the surest and quickest way of securing these rights is by federal law (p. 44).

Such statements combined with the total discrediting of the termination policy by the early 1960's raised serious questions as to the road ahead for American Indians and for what policy initiatives should be undertaken to move the Indian down the most constructive road.

Clearly the Department of Interior Task Force and the Fund for the Republic Commission saw that road as entailing a new and more sensitive concern for legal rights. Caught up in the growing civil rights euphoria of the time, it was thus logical that both bodies would reconceptualize the Indian problem in rights terms and view Indian solutions as rights solutions. However, rights are a lawyer's conceptualization. It is one which says if people are getting pushed around unfairly, there are legal remedies, and if you reconceptualize those human relationships in legal terms, then you have concrete instruments to which you can turn when people are not being treated

fairly. This means, however, viewing the situation in terms of rights against government, and in the Indian case, rights against tribal government. This entails saying that reservation Indians have rights against their own tribes which have to be respected. Or if they are not, the tribes must account to whites as to why they are not being respected. It meant, in other words, dealing with Indians through white law and evaluating behavior in terms of white standards.

Many Indians, on the other hand, saw their situation far more clearly in terms of political rights than civil rights. They thus had trouble reconceptualizing their circumstances in civil rights terms. This became dramatically clear when a Subcommittee of the Senate Judicial Committee began an extended set of hearings on the Constitutional Rights of the American Indian, and particularly solicited Indian testimony at those hearings. The hearings, which turned out largely to be an effort to validate the findings of the Fund for the Republic Commission and the Interior Department Task Force, were conducted in such a way as to seek from Indians testimony regarding their own sense of the deprivation of their rights by their tribal governments. But Indians, asked if they felt their rights were so threatened, seemed confused by the question. Many answered in the negative. Many pointed out it was not the tribal council or the tribal courts which denied them rights. It was the B.I.A. or white merchants near the reservations or local courts where Indians were taken when picked up in town. Further, many Indians had trouble seeing how imposing new white restrictions on tribal governments would deal with economic deprivation, treaty problems, property disputes, water rights, fishing rights, grazing rights, and a plethora of other

pressing difficulties which made the Indian's life complicated and depressed. Further, as a "red power" movement began to take root in the fertile, culturally pluralistic soil of the 1960's, that movement viewed the ideology of civil rights with considerable hostility. Its leaders argued that Indians had experienced so many betrayals through policies which purported to give them legal and social equality, that they suspected anyone who spoke of either equality or of helping them to "get into the mainstream." The policy of "termination" had been based on giving Indians civil rights, under the theory that by abolishing treaty rights Indians would receive full citizenship. The devastating results to Indians of that policy were now clear.

The new struggle for colorblind equal rights, so central to the Black civil rights movement, up until the turn toward "Black power" dismissed the equally important fact of Indian community existence and the corresponding legal rights of a community to exist for its own sake. The radical individualism which civil rights encompassed frightened many Indians, since it was the same religious application of individualism which had been used to justify the allotment policy which had been disastrous in an earlier era. The tribes were concerned about their separate existence as dependent nations for whom the United States had a responsibility. Their rhetoric was the rhetoric of political liberty, not civil rights. They sought the right to establish goals and values, to make laws, to choose their own citizenship and system of government, and to share the benefits and burdens of tribal citizenship. More specifically, political liberty meant leaving the tribes free to run their tribal councils and tribal

courts on their own terms, even when those terms led to infringement of the individual rights of tribal members.

On April 11, 1968 immediately following the assassination of Martin Luther King, Jr., Congress passed a new civil rights act. The measure included provisions for greater access to federally funded housing, a section setting forth federal penalties for crossing state lines with the intent to engage in conspiracies to foment public disorder, and an Indian Bill of Rights, imposing certain provisions of the U.S. constitution on Indian tribes for the first time in American history. That provision (Title II of Public Law 90-284) culminated a ten-year campaign, led by Senator Sam Ervin of North Carolina, "to grant the American Indian his share of the American dream. . .thereby clearing the way for this nation to unburden its guilt in its behavior toward the first inhabitants of this continent." More specifically, the measure mandated Indian tribal governments to adhere to Bill of Rights procedures in their operation, thereby imposing upon those governments restrictions applicable to federal and state governments.²

The enactment of the 1968 Indian Civil Rights Act was a triumph of a type of assimilationism, politically spawned and legally oriented. Senator Sam Ervin of North Carolina, who had almost single-

²The measure did not include the establishment clause, any provisions of the 2nd and 3rd amendment, grand jury investigation, or twelve person juries. Further, counsel was to be at the expense of the plaintiff, and only in criminal cases.

handedly shepherded this legislation into law, had clearly made up his mind at the outset of his committee's hearing (The Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, Hearings on the Constitutional Rights of the American Indian) that the solution for Indians was to afford them full constitutional rights, particularly against their tribal governments. Little in the way of testimony that these were not central concerns for any substantial number of Indians daunted the Senator as he moved ahead to achieve his mission.

Ervin's motives have been both praised and questioned. Defenders have contended that Ervin performed a singular service. The need, as demonstrated by the two task force reports, was for concrete action regarding Indian rights on the reservations. None of the standing committees of the House and Senate, which traditionally dealt with Indian matters (especially the Subcommittees on Indian Affairs of the parent Committees on Interior and Insular Affairs of both houses) was in any way prepared to move toward any remedies to these alleged problems. Ervin was prepared to take on the troubling matter most on the mind of the tribes--P.L. 280 and its threat to tribal continuation. Indeed, in the final version of the bill, provision was specifically made for the virtual nullification of P.L. 280. The new 1968 Act, while not affecting the previous actions taken under it, provided that further assumption of state jurisdiction over tribes be conditional upon Indian consent. Indeed Wilcomb Washburn (Red Man's Land/White Man's Law, 1971) argues that the Indian Civil Rights Act of 1968 "was swallowed by most of the Indian communities because it

provided for Indian consent, before a state could assume jurisdiction over offenses committed with its territory."

Ervin detractors, on the other hand, insist that his actions were principally diversionary. Ervin's Subcommittee sprang from the parent Senate Judiciary Committee, then chaired by Senator James Eastland of Mississippi. Ervin himself had hardly been at any point in the forefront of the Black civil rights movement. On the contrary, he had opposed previous civil rights measures and was careful from the outset of the hearings to separate the fledgling Indian project from the volatile issues of race relations concerning other minority groups. In order to maintain his stand on Black civil rights while investigating those of the Indian, he and his staff had deftly distinguished red from black. Indians came to be known as "the minority group most in need of having their rights protected by the national government." Ervin was later to claim "even though the Indians are the first Americans, the national policy relating to them as been shamefully different from that relating to other minorities." His Indian involvement thus provided the Senator with occasional opportunities to embarrass his northern liberal colleagues, who were allegedly less interested in the first Americans than in the politically powerful Black community.

A number of Indians and Indian spokesmen distrusted the rights emphasis from the outset, Indians which Russel Barsh and James Henderson (The Road, 1980) classify as the "tribalists." Rather than the procedural equality which characterizes the rights-oriented Indian movement, such Indians sought political equality, i.e., the right to establish goals and values and make laws. Tribalists were active

members of and typically residents of tribes. Their rhetoric was the rhetoric of political liberty, not of civil rights. Their commonality was political; they chose their own citizenship and system of government and shared the benefits and burdens of tribal citizenship.

Sensing early that the rights emphasis of the 1960's white champions of the Indians stemmed from a series of assumptions regarding the importance of color blindness and equal rights, at that time a central aspect of the black civil rights movement, they viewed this as a none too subtle form of assimilationism and an assault upon the ethnic, tribal integrity and tribal individuality of Indians. More specifically, they saw it as an assault upon tribal sovereignty and tribal political power and the ability of the Indian to control his own life and his own destiny on his own terms.

It was Indians of this persuasion who on occasion spoke out during the Ervin hearings expressing doubts as to the validity and utility of the Constitutional rights which the committee was so anxious to extend. A number of arguments were made. Some Indian leaders seriously questioned the degree to which tribal governments engaged in arbitrary and unjust action. Others agreed, but went on further to question whether, if such action did occur, it could be remedied by a turn to a type of legal formalism highly unfamiliar to such leaders. Others argued that this was again a regrettable form of misunderstood culture clash. Whites were unprepared to see, or at least were unprepared to acknowledge, they contended, that many of the substantive rights which Congress wanted to impose against the tribes would be and often were extended through the use of culturally unique procedures in the Indian courts and in more informal Indian processes.

Other more outspoken Indian critics charged hypocrisy, maintaining that the Congress which was demanding that the tribal courts extend civil rights was the same Congress which generally denied political liberty to Indians by not letting them participate in legislation affecting their own future.

Other critics argued that imposing white man's rules on tribal government would be highly destructive to that government. Such critics particularly contended that if trained attorneys entered the tribal court, it would no longer be an Indian court, but it would get beyond the experience and the ability of Indians to deal with. A situation would result, it was claimed, in which an Indian who could afford counsel could outtalk and outmaneuver the court because the court would not be skilled, the judges being generally devoid of formal training in the law and possessed of very little schooling. Such a position was unpersuasive to lawyers on the committee, who made clear that in their view justice is impossible without formal and uniform procedure and that if it could not be obtained in a properly predictable way, no true justice could possibly follow.

But the most telling blows against the proposed legislation tended to be the ethnic and cultural. Here the opposition of the Pueblos was most eloquent and most assertive. Arguing certain inalienable rights to be protected in their own customs and traditions, they could not see the validity or utility of relinquishing their right of self-government and submitting to an alien code born, as they argued, of the reasoning "that someone else knows better than we the safeguards of our sacred rights." To them, an understanding of basic differences was essential, even though they rather wistfully admitted

that probably it was not possible. Pueblo society, numerous spokesmen contended, had a different sense of "rights" than modern liberals' concept of the rights of the free individual. The Anglo-American heritage of law was based on an individualistic-rationalist model. Pueblos had always found greater value in ordered, traditional living than in the foreign Western conceptions of an individual's civil rights. Given a choice, they would prefer to maintain their proclaimed tight community over defending the rights of individuals within that community. To place the individual above the welfare and the social harmony of the group would be to destroy its integrity and the general integrity of Indian life. The Pueblos were not easily persuaded from this argument. More than one culturally embarrassing moment came during the hearings when a Pueblo witness would note that non-Indian-Americans, who did have a Bill of Rights wherever they went, and Indian-Americans, whose rights were ostensibly protected when off the reservation, still were deprived of their rights in the execution of Anglo law. One of the arguments of the Pueblos that the hearing committee found least congenial was their assertion that whatever the legal skeleton of Pueblo law, it was hardly less just than the Anglo law which regularly discriminated against them.

But Sam Ervin was not easily diverted from his main objective. In final analysis then the hearings of his committee were not determinative. They were really hearings held to try to validate earlier findings of the Commission and the Task Force and, as such, were not trying to blaze new trails. If the hearings served any real purpose, it was to check on the general validity of the testimony received from those earlier sources, and by their end, Ervin announced

that that testimony had been fully authenticated. Curiously (or possibly deliberately) at no time during the hearings or in the Committee's report was it ever made clear and explicit what this new legislation would actually accomplish in practice regarding the Indians and how it would serve the Indian community. Through passage of the Indian Civil Rights Act, the nation was to "unburden its guilt." That was to be done apparently by imposing white rules on the tribes, thereby imposing limitations on the latitude of self-government which those tribes had previously enjoyed. But how that was to serve the tribes and their members was left unspecified.

The test of the measure and its practical meaning therefore clearly had come in its application, i.e., in its enforcement and subsequent interpretation. This, in turn, rested upon the public policies which would be evolved to implement the act. The act itself initially provided for only a habeas corpus remedy, and for this only in criminal cases. Quickly, however, the lower federal courts evolved a series of "implied" civil remedies--actions for declaratory or injunctive relief or mandamus. The result was that federal courts in a short time came to review matters as central to tribal self-government as election procedures, reapportionment cases, the right to vote, to hold tribal office and the proper qualifications for tribal membership. It was a case involving the latter, Santa Clara Pueblo v. Julia Martinez (436 U.S. 49, 1978), which the Supreme Court used to reverse the process sharply.

Mrs. Martinez had filed a suit under the Indian Civil Rights Act on a sex-discrimination charge. She claimed that a tribal rule denying tribal membership to the children of female members of the

tribe who married outside the tribe, but not to the children of male members who did, violated the Act. The Supreme Court, speaking through Justice Thurgood Marshall, denied the claim and in the process emasculated the Indian Civil Rights Act. Questioning whether federal court justices who had developed the large body of civil remedies for the broad extension of the Indian Civil Rights Act's coverage had not violated the spirit of the framers, Marshall contended that a federal cause of action was not plainly required to give effect to the extension of constitutional norms to tribal governments. Grieving Indians, suing their tribal government in federal courts, asking for relief under white man's law, raised questions of tribal traditions, which tribal courts were in a far better position to evaluate, he stated for the Court.

Justice Byron White was the lone dissenter. As he read the Indian Civil Rights Act, he found it both unrealistic and in contravention of Congress's intent to suggest that the tribal governing body or official who had allegedly violated an individual Indian's right was the appropriate agent for the adjudication of that alleged deprivation.

The outcome of the ruling has been that few tribal court decisions have subsequently been appealed. Tribal self-determination has been bowed to and the individual Indian with a complaint against the tribal government has little opportunity for relief.³

³One group of angry Indian women pointed out in criticizing the Martinez decision, "Tribal counsels are made up of men and are not interested in the rights of Indian women." The ruling has proved a license for continued disinterest.

More specifically, Martinez was welcomed as a great victory by most tribal officers. They considered ten years of federal judicial supervision of tribal legislation and administration quite enough.

The flipside of Martinez, however, is troubling. Few tribes recognize the principle of separation of powers, and few tribal counsels are above sacking a judge reckless enough to issue mandamus or injunction against the legislature's decree. If a single tribal judge is the only authority with jurisdiction over issues arising on the reservation under the tribal constitution, counsels find it easy to act outside of the constitution. Thus Martinez produced growing lawlessness among tribal counsels, especially in the area of electoral irregularities and in violations of procedural fairness. Thus to some critics, giving tribal governments more immunity from federal judicial review than state governments enjoy was not necessarily a major victory.

What I have set out for you then is historians' Indian legal history. I think, as a vital aspect of the treatment of minorities and as a revealing example of the problems of modern cultural pluralism, it has a proper and important place in the constitutional history course and the U.S. survey. Note the centrality of context in the recitation. Note also the concern for how the legal development impacted on the people for whom it was developed. Both, I think, are needed to complement the legal story, since both enhance its understanding, value and significance.

Number 3

THE IMPACT OF INDIAN HISTORY ON THE TEACHING OF
UNITED STATES HISTORY
Chicago Conference 1984 Sessions V-VI

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Introduction

The first conference on "The Impact of Indian History on the Teaching of American History" took place at the Newberry Library November 1 - 3, 1984, under the auspices of the D'Arcy McNickle Center for the History of the American Indian. This conference is one of a series organized by the McNickle Center as a special project funded by the National Endowment for the Humanities. Later conferences will be held in Washington, D.C. October 2 - 5 1985, and September 24-26, 1986 in Los Angeles.

For the Chicago conference, eighty professors of American History from across the Midwest and representatives of selected publishers gathered to listen to the papers and discuss ways of incorporating the emerging scholarship about Indian history into existing courses of instruction. Volume 2 of the Center's new series of Occasional Papers in Curriculum included major papers and commentary presented during the first three sessions of that conference. This volume, Number 3, contains the papers and commentary from sessions IV-V.

These publications are being distributed to all participants in the 1984 conference, and will be included in the registration materials for the next two conferences. The contents are intended for sharing and circulation among other department members, so that the ideas can be disseminated to all teachers of survey courses in American History.

The papers are published in the form submitted to the Center staff, with proof-reading limited to a review for internal consistency. No effort has been made to recast citation into a uniform style. The papers are copyrighted in the present form, although the Center plans to produce a final publication including selected papers from all three conferences. Additional copies can be obtained by writing to: The D'Arcy McNickle Center for the History of the American Indian, The Newberry Library, 60 West Walton Street, Chicago, IL 60610.

THE IMPACTS OF RECENT AMERICAN INDIAN HISTORY

Alvin M. Josephy, Jr.
Institute of the American West

In May, 1934, during hearings in Washington, D.C., by the U.S. Senate Committee on Indian Affairs on the Roosevelt Administration's proposed Indian Reorganization Act, the chairman, Democratic Senator Burton K. Wheeler of Montana, got into a testy discussion with the principal architect of the bill's original version, John Collier, the New Deal's formidable Commissioner of Indian Affairs. The question was how to define the blood criterion for an Indian who lived off a reservation. Collier proposed that anyone having at least one-fourth Indian blood be recognized by the government as an Indian. Objecting, Wheeler insisted that recognition be accorded only those with at least one-half Indian blood. "If you use one-fourth, then all sorts of people are going to come in and claim that they should be put on the tribal roles," he lectured Collier. "What we are trying to do is get rid of the Indian problem rather than add to it."¹ Wheeler had his way, and the final bill carried his one-half blood criterion.

Though Wheeler had previously been an ally of Collier in condemning the deplorable economic and social status of American Indians and agreeing that drastic governmental reform was necessary, his remark about getting rid of an "Indian problem" reflected a political and philosophical point at which he--and undoubtedly the overwhelming number of non-Indian Americans of that day--parted way

with Collier. Whether so characterized or not (and it often was), Indians and their destiny to most non-Indians since the time of Jamestown and Plymouth had constituted a continuous and ever-frustrating problem--or, to be more precise, maze of problems. Resisting a multiplicity of policies designed to dispossess them of their lands and other resources while eliminating them as Indians, Native Americans and their non-mainstream cultures, values, lifestyles, and religions and social organizations, together with a residue of their properties, had persisted into the twentieth century--a discordant element in an otherwise ordered dream of an homogeneous melting-pot nation with a compact of Constitutionally-based relationships among the Federal government, states, and the people. It was true that, in many ways, Indians and their institutions and cultures had changed and adapted through the years. But Indians had refused to vanish or to meld so completely into the rest of the body politic as to end problems occasioned by their uniqueness. Reservations--to many twentieth-century non-Indians a jarring and non-Constitutional phenomenon and withheld source of wealth; treaty rights, involving seemingly unwarranted special privileges; trust protections; taxpayer-borne services; and numerous unique and thorny situations made the vast complex of interrelationships among Indians, the Federal government, states, and the non-Indian population a source of unending controversy and confusion.

From far back in time until well into the second half of this century, it was widely believed that the Indian and the problems generated by his presence would ultimately vanish--if not by disease and war, then by assimilation and attrition on the reservations.

Especially in the latter part of the nineteenth century and until the passage of the Indian Reorganization Act in 1934, most policy-makers, molders of public opinion, and reformers who believed they had the best interest of the Indians in mind worked hard, and often fanatically, to hasten the process of assimilation. Inevitably, they were helped by aggrandizing anti-Indian interests, those who coveted Indian lands and resources. Such measures as the Dawes Allotment Act of 1887 were part of their joint handiwork during a long, fifty-year period that has been characterized by some as an era of forced assimilation.

To most non-Indians during that period contemporary Indians were largely out of sight and out of mind. Save in reservation areas in the West, where frequent contact continued, the popular culture of the United States--reflected in history texts and schoolroom learning, as well as in the vehicles of mass communication, from museums, magazines, and newspapers to books, theatrical presentations, movies, and other forms of expression and art--dealt almost entirely with Indians of the past, and then most often in unreal and stereotypical fashion--demeaning, disparaging, and dehumanizing, as well as grossly inaccurate. Most Americans actually did believe that Indians were disappearing, if not physically, then as identifiable Indians. Even the disappearance became romanticized in such powerful cultural symbols as Richard Dix's movie of the 1920's, The Vanishing American, and James Earle Fraser's much celebrated statue, The End of the Trail.

In the 1920's, a series of governmental and private inquiries into the status and condition of Indians, occasioned by the eruption of conflicts in which John Collier and a new breed of reformers took

the Indians' side, brought the nation--or, at least, many of its opinion-makers and public officials--up short. The Indians, it was discovered, were still far from vanishing or from being assimilated by the agents, missionaries, and others on the reservations who supposedly had been turning them into Whites. Moreover, reservation conditions--the product of a combination of government policies and government neglect--were revealed, particularly by the encompassing Meriam Report of 1928, as a national scandal. In many quarters it was perceived, and agreed upon, that attention and reform were urgently required.

In their new and valuable study, The Nations Within, Vine Deloria, Jr., and Clifford M. Lytle illuminate the many reform notions and attempts, principally in the 1920's and early 1930's that preceded and, in part, led to the climactic reform bill of 1934, the Indian Reorganization Act.² The latter was undoubtedly the watershed measure in Indian affairs in the twentieth century and for the last fifty years has been the principal instrument under which Indians have ruled and been ruled.

It is important, however, to understand just how far the American people of 1934, through their representatives in Congress, were willing to allow Indian reform to go. The hardships and misery of reservation life, the poor health, ill housing, lack of sanitation, poverty, deprivation of education, unemployment, and isolation from capital and other means to share in the American economic system touched the hearts of those who paid attention. If only because the Indian survivors were Americans too, and Americans who had plenty of cause to complain over treatment in the past, fair play was demanded.

But most non-Indians still knew precious little about Indians and still clung to the belief that the only way to end "the Indian problem," with all its currently seen manifestations and ramifications, was to do whatever new might have to be done in order to continue, more successfully than before, with the assimilation process and hurry the Indians into the mainstream of American life. There, like everyone else--as most non-Indians still believed--the Indians would have equal opportunity to share in whatever blessings the American system provided to all its people.

The reform attempts in the years immediately preceding the enactment of the Indian Reorganization Act were little more than piecemeal tinkering and barely, if at all, questioned the goal of assimilation. John Collier introduced something different. A social worker, with experience as a leader in reform movements among non-Indian groups on the East and West coasts, he first "discovered" Indians in New Mexico, thrilled to their age-old values and cultures in a somewhat idealistic burst, and settled down to help them in their struggles against rapacious and bigoted White men. Angry, fearless, naive, self-righteous, logical, contentious--this marvelously complex man had all kinds of adjectives applied to him. But he was a battler for right and justice as he saw it, he had a wondrous ability to gain publicity and mobilize public support for the Indians, and--influenced by anthropologists who adhered to the somewhat new ideology of cultural pluralism, or relativism--he formed a philosophy and theoretical framework for an Indian policy that envisioned a break with prevailing majority thought. It was his fortune, too, to arrive on the scene when he did. An inheritor of the populist and

progressive reform movements--still in his day personified by such old Bull Moosers as Harold Ickes, who as Secretary of the Interior in Franklin Roosevelt's Cabinet, gave him support--Collier, appointed Commissioner of Indian Affairs by Roosevelt, was able to ride the winds and currents of the New Deal, when Depression-bred desperation granted a more-than-usual permissiveness to reforms and social experiments. Innovations and breaks with the past were in the air, and to some extent, at least, Collier's new Indian policy was a significant and not-to-be-overlooked part of the changes that were refashioning America.

The original bill he drew up as an Indian Reorganization Act in 1934 was intended to give the Indians a new lease on life as Indians. It did not say explicitly that the government would no longer push or coerce them toward assimilation, but its impacts pointed in a new direction by encouraging them to revitalize their cultures, traditions, and institutions and choose their own destiny for themselves, permitting them to assimilate at their own rate of speed if they wished to become assimilated, to remain as Indians if they preferred, or to select whatever they found useful and desirable in either culture, the White men's or their own.

In a number of ways, Collier was ahead of his time. Most importantly, perhaps, he struck a blow--though little-recognized at the time, save as it concerned Indians--at the reigning melting-pot concept of America. The country's culture at the time was still strongly wedded to this concept, as a glance at almost every school reader and textbook of the period, with their excerpts from such writings as The Americanization of Edward Bok, will attest. It was

another three decades before large numbers of Americans would share Collier's conviction--much of it acquired by them from a new and more realistic familiarity with Indians in the 1960's--that America was, and should be, a pluralistic society.

There were those, of course, who agreed with Collier at the time, and supported his original bill. But the underlying concept of the right of Indians to be Indians, and the aims of many of the original bill's provisions that were to give that new policy meaning and strength, were not shared by Senator Wheeler, most members of Congress, or the general American public whom they represented. Nor, indeed, were they accepted at the time by many Indian-interest organizations like the Indian Rights Association, which still believed that assimilation was the best policy for Indians. Even many Indians who had become assimilated, or partly so, opposed Collier's bill, having been persuaded that Indians should shed their Indianness and, like themselves, make every effort to enter the mainstream of American life.

In light of the opposition, particularly that of Senator Wheeler, whose position as head of the Senate Committee on Indian Affairs gave him great power and influence, it is remarkable how much Collier achieved in the final version of the bill. Wheeler, in effect, took the original bill out of Collier's hands, striking out parts, modifying others, and forcing compromises from the Commissioner. Essentially, the finished document could be said to have been designed simply to get the Indians back on the road to assimilation by assisting their economic and social development. But in many instances, Collier argued successfully that the achievement of the

economic and social goals depended upon, or would be furthered by, provisions dealing with political or cultural matters, and--aided sometimes by pressure from Roosevelt or Ickes--he got much of what he wanted.

The final bill, sometimes called the Wheeler-Howard Act for its sponsors, Wheeler in the Senate and Congressman Edgar Howard of Nebraska in the house, was enacted on June 18, 1934. Without enumerating all of its provisions, we may note some of its principal points. It brought an end to the devastating allotment policy that since 1887 had stripped Indians of some 90 million acres of their lands. Though Wheeler scrapped Collier's original title that would have set the stage for the acquisition of far-ranging and meaningful powers of self-government by tribes and even sub-groups, it gave tribes the opportunity to organize themselves for limited self-government, authorizing them to write tribal constitutions, elect tribal councils, and incorporate tribal institutions. It established a \$10 million revolving credit fund to help tribes; fostered educational and medical improvements; provided for the acquisition of land, water, and surface rights for tribes to consolidate or increase their holdings and assist their economies; restored freedom of religion to the Indians; and promoted a revival of Indian arts, crafts, and cultures.

Soon after the bill's passage, Collier and his solicitor, Nathan Margold, prepared a paper to assist the implementation of the Act by clarifying and elaborating on its wording. It proved to be an important addendum, for it enumerated a host of inherent powers, not spelled out in the Act, that the Commissioner and his solicitor

maintained could be asserted by the tribal governments that the Act had authorized. Together, the Act and the clarifying paper--which the otherwise preoccupied New Deal Congress barely, if at all, noticed--went far toward meeting Collier's original goals. The final Act had not ended assimilation as a national objective, but its provisions gave the Indians opportunities and encouragement to choose their own destiny and to continue as Indians with their own institutions, cultures, and self-government--the latter limited, but with a potential for expansion--if they wished to follow that road.

The implementation of the Act during Collier's regime as Commissioner was difficult, often stormy, and not without serious opposition from members of Congress, dissenting bureaucrats within the Bureau of Indian Affairs, aggrandizing Whites in the states, and various tribes, traditionalist Indians, and organizations of assimilated Indians. Chronic inadequate funding by Congress, together with BIA shortcomings and hamstringing by bureaucrats ingrained with assimilationism or fearful for their jobs, hobbled and crippled many of Collier's aims and efforts. On occasion, some tribal groups resisted Collier's policy and programs. To this day, Navajos have not forgiven him for a stock reduction program that he forced upon them as a conservation measure to save their limited rangeland. Most annoyingly, some assimilationist Indians fought the Commissioner viciously in meetings and in the press, charging that his policy was a communistic plot to thwart Indian progress.

Nevertheless, many tribes established governments in conformity with the provisions of the Indian Reorganization Act, or IRA, as it was known. To help meet financial shortfalls, resulting from

inadequate Congressional appropriations, Collier adopted the revolutionary approach of letting the Indians share in specialized New Deal assistance programs passed by Congress for the benefit of non-Indians. Heretofore, all benefits and monies for Indians had come through appropriations to the BIA; other agencies and their programs were customarily for everyone but Indians. Now Collier made arrangements with such agencies as the Civilian Conservation Corps, the Farm Security Administration, and the Public Works Administration that put Indians to work and made funds available for Collier's Indian programs. With such help, from 1934 to 1947 the Indian land base increased by 3,700,000 acres, the first increase since 1887. In the same period Indian-owned livestock increased from 171,000 to 361,000 head, and the total agricultural income received by Indians grew from \$1,850,000 to \$49 million.³ At the same time, advances were made in Indian education and health; new emphasis was given to the raising of standards of living on reservations; arts, crafts, and traditional cultures were revitalized; and official restraints on the practice of Indian spiritual life were removed.⁴

In practice, facets of the final draft of the IRA were not without their blemishes and deficiencies. Some of the Act's provisions, together with the precedent-setting implementation carried out by the sometimes self-righteously-driven Collier, led to conflicts and controversies that have still not fully quieted. The methods and practices of voting to accept the IRA, tribal constitutions, and tribal governments, frequently aroused or exacerbated intratribal factionalism and conflict. Because of the opposition of Congress, which had refused to entertain possibilities that might have led to

governments of the Indians' own choosing, or to a fuller and more meaningful Indian rule of themselves, the Act's provisions for self-government fell short of Collier's original hopes. Despite the clarifying paper that had noted inherent powers possessed by the tribes, the IRA governments, as they developed, were by and large seriously circumscribed in asserting those powers. Subject to veto by the Secretary of the Interior in fiscal, resource, and other key matters, they were susceptible to the authority and control of reservation superintendents and their staffs who sometimes colluded with, and helped to maintain in office, pliant cliques of professional Indian politicians, usually the better educated and more assimilated members of the tribe. In addition, a Court of Indian Affairs, proposed in Collier's original bill, that might have gone far to ameliorate and settle intratribal and community conflicts, was eliminated in the final Act.

It should also be noted that though Collier had sought, received, and in some instances accepted Indian criticism and changes--for the first time in history taking proposed Indian legislation to meetings in the field for Indian consideration and input, itself a notable revolution--the recognition by most Americans of the right of Indians to self-determination was still far in the future. The guardian-ward relationship, though not articulated as frequently as in the past, was still strongly felt--believed in by Whites and accepted passively by many Indians--and most Whites still thought it their duty and right to think, speak, and act for Indians, in effect imposing upon them what they deemed best for their interests--which, not surprisingly, often turned out to be what was best for the non-Indians' interests. There

is no doubt that Collier meant to enable and encourage the growth of Indian self-determination, looking forward to a day when assimilation, in another sense of the word, would reflect an accommodation without coercion between the dominant society and Indians who were managing and running their own affairs themselves, according to their own needs and desires, with each side accepting ideas from, and living harmoniously with, the other.⁵ But Collier himself, along with such aides and supporters as the anthropologist and author, Oliver LaFarge, still practiced a paternalism that considered the Indians still too untutored in the White men's ways to be able to cope with the dominant society on an equal basis. Thus, falling within the context of its times, the IRA was a White man's document, devised and written by Whites for Indians. As such, it could not be perfect, since Indians inherently knew better than Whites what they needed and desired and what they would welcome and be able to make work successfully within the framework of their cultural backgrounds and contemporary life. It would be years before most Whites would begin to learn this lesson.

Nevertheless, in retrospect, some persons, both Indians and non-Indians credit the IRA with the historic achievement of having helped the Indians to save their Indianness, as well as their tribes. "Collier," said one recent observer, "succeeded in preserving Indian identity from complete absorption in the 'melting pot' by creating a system of autonomous tribal entities within the political and economic superstructures of American society as a whole."⁶ True or not--that is, whether or not Indians persisted, or could have persisted, as Indians, with their tribal groups and reservation land bases intact, through their own will, as many of them had done through five hundred

years of every type of adversity--the implications, both for Indians and non-Indians, are worthy of thought. In 1934 the forces and changes of the preceding half century had brought Indian communities close to crisis. In addition to feeling responsibility to cope with the vast dimensions of human oppression and suffering, Collier and his supporters felt that they could not permit the disappearance from American life of the rich cultures and beliefs and value systems of the Indians that stirred and inspired them. By helping to save Indians, as it were, the IRA would benefit all Americans, saving for them the examples and influences of the cultures of the Indians. Few others at the time were enough informed, or even aware, of Indians to have shared such sentiments. Assimilationists would certainly have disagreed. But again, perhaps, Collier was ahead of his time, for ultimately, starting in the 1960's, many non-Indians, discovering what he had found, began to recognize that the continued presence of Indians and their cultures not only ennobled and enriched America but provided them with insights regarding the reality of cultural values and the significance of culture in the American society. "America Needs Indians," was the first crusade in the early 1960's of Stewart Brand and his youthful hippie friends, who later gained prominence with their Whole Earth Catalogue.

At the same time, as the late Indian anthropologist, D'Arcy McNickle, pointed out, some of Collier's innovations were precedents in U.S. government administration. Collier's creation of an anthropological unit in the BIA, and his enlistment of anthropologists and social scientists foreshadowed similar developments in anti-poverty and other government agencies working in later years with

members of American sub-cultures or peoples of other cultures overseas. "It was a breakthrough," McNickle observed, "that later on led to technical assistance programs all over the world."⁷

During World War II, some 25,000 Indians served in the nation's armed forces, a number of them in communications teams where they used their own languages on telephones and radio equipment to confound enemy interceptors. It was the first time that most of them intermixed with non-Indians in the non-Indian world, and cultural influences and impacts ran both ways. Among the honored flag-raisers on Iwo Jima was Ira Hayes, a Pima Indian from Arizona. After the war, returning Indians were anxious to bring more of the White men's material traits to the reservations. Others found little to do on the reservations, and went back to the White men's world to try to make a living. At the same time, other Indians who had left the reservations during the war to work in defense plants and shipyards preferred to remain in their new environments, gradually becoming assimilated into non-Indian life, though retaining their Indian identity and attachment to their people at home.

Both the IRA and the reservations were severely hurt by the war. Indian budgets were cut drastically, and the implementation of IRA policies and programs was all but stalled. The departure of many of the best educated Indians for service and war work crippled and ended hopeful new tribal enterprises. In addition, the atmosphere of unity engendered by the war subjected Collier and the IRA, with their perceived philosophy of perpetuating Indians as separate and different from other Americans, to new criticism. Congress turned angrily against the IRA, charging it with having held up assimilation.

Seeking economies, the lawmakers demanded that Indians be taken off the backs of the taxpayers, and that they be "freed from the reservations" so that they could make their own way like all other Americans. Prominent among the complainers were the aggrandizing interests, still coveting Indian lands and resources, and urging the end of reservations, tribes, treaties, and trust protections, and the turning over of Indians and their possessions to the jurisdiction of the states.

Buffeted by the criticism, Collier finally resigned in the spring of 1945. In his wake, reaction took over in Indian affairs. In 1946, the government established an Indian Claims Commission. Its function was avowed to be the settling of all Indian claims of unjust land dealings in the past by hearing whatever evidence tribes wished to bring before it and awarding payments to tribes that proved their case. Its more realistic purpose became clear in 1952, when Dillon Myer, the then-Commissioner of Indian Affairs, revealed that it had been established to provide "the means of removing a major Indian objection to any move in the direction of Bureau withdrawal" from further relations with the tribes.⁸ Nevertheless, through many Congressional extensions, the special court lasted until 1980, heard hundreds of cases brought by the tribes, and awarded many millions of dollars in claims.

In 1953, the passage of two measures--Public Law 280, authorizing states to assume jurisdiction over criminal and civil matters on reservations without tribal approval, and a resolution declaring Congress's intent to end Federal relations with the tribes at the earliest possible time--ushered in a new era marked by a destructive

termination policy in Indian affairs. Impulsive and radical in the extreme, it served notice that support no longer existed for the philosophy of the IRA. In one sense, the new policy was part of the context of the nation's Cold-War turn to conformity, most dramatically exemplified by McCarthyism. Indians, observed Felix Cohen, who had helped draft Collier's original bill in 1934, were like the miner's canary, the signaller of what was in store for everyone. In another sense, the policy reflected one of the most cherished tenets of American liberalism, which especially after World War II held that everyone, including all minority groups, should receive equal treatment and equal opportunity to succeed. Still unknowledgeable about Indians' needs or desires, non-Indians generally accepted the devious argument that the segregation of the reservation system, together with the continuance of tribal institutions, Indian cultures, and BIA rule--all alleged anachronisms in modern-day America--were holding the Indians back and had to go. In all, termination stemmed from many motives, but added up to the return of enforced assimilation with a vengeance.

Termination, imposed on tribes whether they wished it or not, meant the withdrawal by the Federal government of all relations with them, including the observance of treaty and trust obligations and the delivery of services. Terminated tribes and the responsibility for the protection of their lands and other possessions were to be turned over to the states in which they were located, and the Indians' future relations would be negotiated with the states. One by one, a number of tribes, including large ones like the Klamaths of Oregon and the Menominees of Wisconsin and small ones like the Alabamas and

Coushattas in the South and bands of Paiutes in Utah, were terminated. Trusteeship of tribal property was shifted from the Federal government to trust officers of private banks who knew or cared little about the Indians' needs. The hurried process soon produced scandals. Indians and their resources were subjected to renewed fraud, robbery, and other injustices, tribes were demoralized by confusion and economic disaster, and states were confronted with huge welfare and other burdens.⁹

Simultaneously with the implementation of the termination policy, the Federal government gave increased emphasis to a relocation program to try to ease economic pressures on the reservations and accelerate assimilation. Indians considered best able to accommodate to the White men's world were sent from the reservations to large cities where they were provided with housing and jobs. Some made the change successfully and settled permanently among the non-Indians, joining those who had preceded them to cities during the war to give rise to a new category of "urban Indians," possessing their own special off-reservation needs and problems. Others became homesick, could not adjust to an alien culture and society, lost their jobs and homes, and landed on skidrows or returned to their reservations.

The termination policy and the relocation program left broad wakes of human suffering and tragedy. Both, also, had historic consequences for Indians and non-Indians. Feared and opposed by virtually every tribe, termination gave strength and purpose to the Indians' leading national organization, The National Congress of American Indians, founded in the 1940's and based in Washington, D.C. With new vigor, the NCAI helped mobilize the tribes, as well as

non-Indian organizations, church groups, and other supporters, to oppose and bring an end to the termination policy. To the non-Indians, the injustice of the unilaterally imposed policy that brought widespread disorientation and new problems to the tribes was evident. But the crusade was also an educational process, for it spread new awareness and understanding of Indians and their economic need for a strong reservation land base among large non-Indian constituencies, and most importantly made many Whites recognize and accept for the first time the right of Indians to be Indians, the wrong of trying to force them to assimilate, and the obligation to permit Indians to speak and decide for themselves. The enlightenment, dawning first among longtime reformers and self-styled friends of the Indians whose churches and Indian-interest organizations had traditionally been assimilation-oriented, heralded a great change that would soon affect a large part of American society.

As a result of the opposition, the distress and dislocations brought to the tribes, and the financial and social loads placed on the affected states, the Eisenhower Administration finally reversed itself and halted the implementation of termination without a tribe's consent in September, 1958. Though the policy remained on the books as a continuing threat to the Indians, actual termination came to an end. But enduring damage had been done to the progress of the Indians and to the future of Federal-Indian relations. Not only had development under the IRA been aborted, but a confrontational environment had been created between the Indians and the Federal government. For a long time afterward, tribes were suspicious of the motives of government actions and programs and resisted anything that

suggested that it might open the door to a renewal of termination.

At the same time, in their fight against termination, Indians had gained strength in standing together, and self-confidence in speaking for themselves and determining on their own what they wanted and did not want. Seeds of Indian self-determination and nationalism that sprouted and bloomed during the following decades had been planted. Moreover, Indians had begun to project realism about themselves among the non-Indian population. Large numbers of Whites were at last beginning to shed paternalistic attitudes, stereotype thinking, and opposition to the existence of reservations and separate, distinct Indian cultures alongside the dominant culture.

And yet the changing picture in 1960 should not be overdrawn. The great majority of non-Indian Americans had not yet been affected. Under the driving force of Rene D'Harnoncourt and with the support of the Indian Arts and Crafts Board, another agency that appeared during the Collier period, the prestigious Museum of Modern Art in New York had stirred the non-Indian art world with a landmark exhibition of Indian art in the 1940's.¹⁰ But it had come and gone, leaving an impact on only a small number of connoisseurs. Widespread understanding and appreciation of the stature and brilliance of Indian art and artists, past and contemporary, were still in the future. Obscurity still shrouded most other aspects of Indian life and culture. Karl Menninger, but few other members of the medical profession, took Native American medicine seriously. Jose Limon was just beginning to study Indian dance. Soon he would incorporate it in his ballet repertoires, startling audiences all over the world. But that was still to come in 1960, as were a hunger for understanding

Indian music, Indian methods of child-rearing, Indian philosophy, Indian legends and lore, and all the other treasures of the Indian heritage--once spurned and stamped upon contemptuously.

In 1960, too, the popular media's treatment of Indians was still largely uninformed, distorted, and offensive. Textbooks and histories continued--and one might say, continue in large measure even now--to harm both Indian and non-Indian students and readers by their omissions, disparagements, and inadequate and false treatments of the role of Indians in American history. Almost without exception, histories were still ethnocentric, White-oriented, and blatantly deficient. As they had done for generations, they still generally began with a chapter on the Age of Discovery, portraying Europe in the fifteenth century and following the fortunes of Columbus and his successors. Chapter Two was usually titled the Age of Colonization and dwelled on the establishment of the first White settlements. The sparse references to Indians (after obligatory acknowledgements to Pocahontas for saving John Smith's life--a bow to the influential First Families of Virginia, who proudly claimed descent from the Christianized Indian "Princess"--and to Squanto for helping the Pilgrims give us Thanksgiving Day) equated the Native Americans with trees, perpetuating an image of faceless, amoral, and cultureless "savages"--often skulking and bashing babies' brains out against rocks apparently for the pure joy of it--who had to be cleared away by Whites who were struggling nobly to conquer the wilderness.

From time to time, thereafter, Indians popped in and out of the text, still one-dimensional, impersonal forces that had to be pushed aside or eliminated. Little or nothing was said of their tribal

histories or cultures that might, at least, have explained their motives. They were there as "hideous" warriors in the French and Indian War, as "bucks" and "renegades" in the Revolution (massacring at Cherry Valley), and as "braves" and "squaws," obstructing the railroad builders, the miners, and the settlers who were "winning the West" in the chapter that immediately followed the one on the Civil War and preceded the one on The Industrialization of America. Finally, the "redskins" got their just punishment after "massacring" Custer at the Little Bighorn. Then they disappeared. Their role in American history was finished.

Lest I appear facetious, I cite attention to the most influential American histories still in use, and still being written, at that time, a quarter of a century ago--to such basic works as Carl Becker's The United States, Experiment in Democracy, Charles and Mary Beard's Basic History of the United States, Henry Bamford Parkes's The United States of America: A History, and so forth; to regional studies like Francis Butler Simkins's The South, Old and New; and to such critically-acclaimed works as Perry Miller's two volumes on the New England mind in the seventeenth century, with scarcely a mention that Indians were present to influence the Puritans, and Arthur M. Schlesinger, Jr.'s Pulitzer Prize-winning The Age of Jackson, which included not a single word on the removal of the Southeastern tribes, the Trail of Tears, or John Marshall's Worcester case decision. I might add that the legacy of those days continued on. No better were the preponderance of later works, such as Edwin C. Rozwenc's The Making of American Society, published in 1972, and perhaps the most widely-adopted American history textbook still in use even today,

John A. Garraty's The American Nation, first published in 1966.

Moreover, in dehumanizing Indians, majority intellectual thought possessed the demeaning habit of pigeon-holing them with non-human subjects of scientific curiosity and interest. The popular presentation of Indians consigned them to Museums of Natural History, along with birds, dinosaurs, and whales, as if they were not living peoples. I found the same criterion applied to the first book I wrote on American Indians, The Patriot Chiefs, published in 1961. In Scribners, Brentanos, and most other bookstores I visited, the volume was not placed with the histories of Spaniards, Japanese, Jews, or other humans, but on the Nature shelves, among books on insects, seashells, and flowers. You can be sure that, with great anger, I played a pioneering role in educating many a bookseller from Boston to San Francisco! (Parenthetically, I might add that I am still trying to persuade the Museum of the American Indian, one of the notable exceptions to what I have observed above, not to merge with New York's Museum of Natural History.)

Among both Indians and non-Indians, reaction to the termination period became manifest in the 1960's. The Democratic Kennedy and Johnson Administrations neither endorsed nor disavowed the termination policy, but focusing on trying to strengthen the reservations' economies and raise the Indians' standards of living, revived some of the thrust and substance of the IRA and explained to critics among the assimilationists that they were helping the tribes better prepare themselves for termination. Among the avenues pursued by the Democrats were stepped up, but largely unsuccessful, attempts to persuade job-producing private industries to locate on the

reservations and the encouragement of the long-term leasing of reservation lands and resources by non-Indian development and energy corporations. Some persons maintained that such long-term leasing, accompanied by large-scale corporate investments, would shield the reservations against termination. On the other hand, such leases amounted practically to sale of tribal lands and resources by putting them almost indefinitely into the possession and control of non-Indians, and many Indians began to resist leasing, fearing a more subtle "termination by corporation." As the years went by, the terms of such leases negotiated by the government in behalf of the tribes were seen moreover to have been financially and environmentally detrimental to the Indians. By the 1970's, the Navajos, Northern Cheyennes, Crows, and other tribes were clamoring for the cancellation, or a renegotiation of the terms, of the leases. Dissatisfaction reached a climax when the energy crisis made clear the true value of the enormous energy reserves on many western reservations. With the assistance of government funds, a number of tribes formed a Council of Energy Resource Tribes (CERT), hiring non-Indian experts to help them control the disposition of their resources, train their own people for management, and if possible renegotiate past leases.

Meanwhile, the Indians of the early 1960's had made an historic turn during the fight to end termination and with increasing assertiveness were beginning to demand the right of self-determination. At a Chicago conference in 1961, several hundred Indians hinted at what was to come by asking the Kennedy Administration to allow Indians to participate in the decision-making

process of policies, programs, and budgets designed for the tribes. A group of young college-educated Indians who were at the conference were more impatient. Forming a National Indian Youth Council, they dedicated themselves to reinstilling a sense of national pride among Indians. In the coming months and years their demands for Red Power, the right of Indians to make their own decisions and manage their own affairs, and for the observance of the Indians' treaty rights by the White men's society, gained the alliance and support of many traditional peoples on the reservations. Their influence, too, was felt by many of the tribal political leaders, some of whom were shamed by being called "Uncle Tomahawks" and "apples" (red on the outside, white on the inside) because they had pliantly played the White man's game against the interests of their own people. Inevitably, the growing assertiveness of both the young and old helped to bring the Indians and their needs and demands to center stage on the American scene.¹¹

A number of significant forces interplayed to support the Indians' growing cry for self-determination. Under pressure from the Indians, the provisions of two important anti-poverty agencies of the first half of the 1960's, the Area Redevelopment Administration (later reauthorized as the Economic Development Administration) and the Office of Economic Opportunity, were made available to them. Both were important breakthroughs, because under the mechanisms of the Acts the tribes for the first time were enabled to devise programs and budgets that they felt were needed and then administer and control the programs themselves. In practice, government bureaucrats did much to guide the Indians and make the important decisions, and the tribes

acted more as agents of the government, administering the programs they received. But on the whole, the experience, which BIA programs had always denied them, was deemed a success and led to Congressional authorization of Indian inclusion, under similar circumstances, in Great Society educational, anti-poverty, housing, and other programs administered by several different Departments and agencies in the government. As funds from these programs poured onto the reservations, Indian leadership gained experience and self-confidence in managing tribal affairs, and the demand for broader self-government and self-determination swelled.

All this, meanwhile, was keeping pace with rapid changes in the world and in the United States which were having impacts on the Indians. The spread of nationalism, the emergence of Third World nations, the rights revolution in the United States, particularly the struggle of the Blacks, the opposition to the Vietnam War, the self-examination of ethnocentricity, the new attention paid to all American minorities, the recognition of the values of cultural pluralism, and the search by Western youth for alternative cultures and lifestyles, all formed a context in which the Indians strove for what they wanted and to which--most significantly--they, in turn, made profound contributions of their own that greatly influenced non-Indian society. During this period, Indians were changing quickly. Mobility was increasing, and more Indians than ever before were traveling from the reservations and becoming familiar with the White men's world. Educational and other measures were helping them to go to college and graduate schools and master the techniques of modern day communications, politics, and industry. At the same time, a

proliferation of Indian newspapers, Indian-written books like Vine Deloria's Custer Died for Your Sins, and Indian creative work in the arts helped make them aware and proud of their own history, cultures, and ethnic uniqueness in the United States. In powwows and conferences, Indian nationalism grew, and while tribal identity continued to be important, a Pan-Indian spirit appeared, uniting Indians behind common causes. In line with the times, the spirit took on an activist stance, aroused initially by the NIYC, but which spread fast among groups of urban Indians and culminated in the emergence of the charismatic leadership of the militant American Indian Movement, founded in 1968 in Minneapolis.

Protesting scores of festering grievances and injustices, and demonstrating angrily for real self-determination, governments of the Indians' own choosing, and sovereignty--ideals given lip service since the days of John Collier, but still far from realization--the nationalistic-minded urban Indian activists gained followers on the reservations and, supported by Indian spiritual teachers and other traditionalists, stirred the nation with dramatic confrontations at Alcatraz, the Bureau of Indian Affairs Building in Washington, D.C., Wounded Knee on the Pine Ridge reservation in South Dakota, and other sites throughout the country. Their violence-marked militancy commanded worldwide attention for Indians and their needs, but was finally quieted by the bitter repression of law enforcement agencies. Nevertheless, the activists had embarrassed and nettled the Federal government, and Federal-Indian affairs--like the Indians themselves--would never be the same. In 1970, President Nixon announced that self-determination had taken the place of termination

as the nation's Indian policy, and in 1975 a Democratic Congress passed an Indian Self-Determination and Education Assistance Act. The former was largely rhetoric, and the latter, aside from authorizing the subcontracting of Federal services to tribal groups and amending certain provisions of previous educational measures, still did little to advance meaningful self-determination. But the fact was that the Indians' drive for self-determination, now fifteen years in the making, had made a great impact on the attitudes of the non-Indian American population, not only toward Indians, but in adding to their understanding of both the United States and the modern age.

Initially, the Blacks' civil rights movements had drawn attention to all of America's minorities and helped sensitize much of the nation to the presence of Indians and their needs. But most non-Indians had learned that the Indians' special and unique historical status precluded equating them with Blacks or members of other minorities. To some, it was unsatisfactorily confusing and has remains so: the Blacks appeared justly to want integration, the Indians wanted separatism, seemingly "un-American." But as the Indians' political visibility grew, questions were answered for increasing numbers of non-Indians. Interest in Indians was generated not only by the activists, but by the media of the popular culture and the intellectual and creative activities of Indians and non-Indians. The new discovery was both realistic and romantic. Widespread impacts were made by best-selling books like Dee Brown's Bury My Heart at Wounded Knee, the Pulitzer Prize-winning writings of Kiowa Indian N. Scott Momaday, and particularly among those seeking alternative cultures by the vastly influential Black Elk Speaks and the volumes

of Carlos Castaneda.

At the same time, Indians became positive, though somewhat unreal, symbols for environmentalists, idealistic liberals, and the alienated. Non-Indians in droves, especially the young, traveled to reservations, as if to Shangri-La, to seek the purity of Indian values, the wisdom of Indian spiritual teachers, and the timeless beauty and serenity of Indian life. To some, it all turned out to be a mirage; upon many others, the experience was rewarding and made lasting impacts.

Simultaneously, in the cities, funds were raised by the radical chic for Indian causes. The wearing of Indian jewelry and fashions was "in." Museums and galleries competed to display Indian art and artifacts, and collectors outbid each other for paintings by R. C. Gorman, Fritz Scholder, and other Indian artists, jewelry by the Hopi, Charles Loloma, and photographs of Indians by Edward Curtis, prices for whose sets of images, unnoticed and unwanted since they had been made in the earlier years of the century, shot up overnight to more than \$100,000. Indian impacts were reflected all through the dominant culture, by television documentaries filmed on reservations, by movies like "Little Big Man"--which were now sympathetic to Indians, though they did little to explain them--and even by a special issue of LIFE Magazine devoted entirely to Indians. The last was a notable symbol of what was happening. Throughout its history, LIFE, like TIME and other Luce publications--among the most important molders of American public opinion--had had a strict policy--broken only by the infrequent reporting of disasters like the mass starvation of Navajos--against carrying any stories on Indians. To the boss, Indians were

"phonies"--stubborn people cutting off their own noses by trying stupidly to hang onto an obsolete and heathenish past. All suggestions from the field for carrying features or hard-news stories on Indians went into the wastebaskets automatically during the weekly editorial conferences in New York. The LIFE special issue heralded a new day, especially since it showed a new tolerance and admiration for the Indians as different Americans with rich cultures of their own that were still contributing to the wondrous diversity of American life. Here, indeed, was mass media acceptance of cultural pluralism.

The revolution, of course, ran deeply in academic life, affecting administrators, faculties, and--marvelous to note--historians and the publishers of textbooks. Colleges and universities--not always with the purest motives, for often they simply wanted government funds--established Indian studies courses, staffing them quite frequently with non-Indians who knew little or nothing about Indians or were just starting to learn about them. The same kind of people--especially young history professors, seeking some field in which they could acquire instant recognition and advancement as experts--began to write on Indians, finding a growing number of publishers who were anxious to cash in on the new demand for works on the First Americans. In time, the scene improved: universities searched for, and found, Indian teachers for the Indian-study courses, and Indians like Edward Dozier, Alfonso Ortiz, David Edmunds, and Veronica Tiller began to write and publish informed and deeply felt works on Indian histories and cultures.

Simultaneously, Indian organizations like the American Indian Historical Society in San Francisco, led by the valiant Cahuilla

Indian intellectual, Rupert Costo, shook state educational groups, condemning state-adopted texts for their false and inadequate treatments of Indians. Faced by losing state adoptions, many textbook publishers tried hurriedly to correct old texts and lecture their authors on the need to write new ones. Firms like McGraw-Hill put much effort into instructing editors to eliminate offensive words like "squaw" and become more sensitive about ethnocentric sentences. On the whole, the process was mostly cosmetic and even mindless. At the same time that it was trying to tidy up its texts, McGraw-Hill with a great flourish of publicity issued the ridiculous memoirs of Chief Red Fox, a hoax that insulted Indians.

To this day, history texts are still largely unsatisfactory derivatives of the past as they refer to Indians. Such recent basic works as those by the history giants, Samuel Eliot Morison, Henry Steele Commager, and Richard Morris, reflect the ingrained thinking of an older generation that really could not change. They broke the previous pattern of American history-telling by inserting an entirely new first chapter on the First Americans, making a preliminary bow, as it were, to the recognition that there were people here before the Age of Explorers. Then they took more care than before in interweaving the Indian presence into later chapters of American history. But--like scores of high school and college texts structured along the same lines and presently in use--they are simply out-of-date at best and mischief-making at worst. In short, they have a long way to go to catch up with the scholarship and perspectives provided by modern day students. In light of the work of archaeologists, for example, it should no longer be permissible to say, "The Indians lived here from

time immemorial." They had their own histories before the White men arrived, and we now know a lot about them. In the same vein, Francis Jennings, James Axtell, and others have taught us that it is no longer tolerable to accept unquestioningly the Puritans' version of the Indians' role in the New England foundation period of our culture, while books like Michael Paul Rogin's Fathers and Children, Anthony F. C. Wallace's The Death and Rebirth of the Seneca, and Richard Slotkin's Regeneration through Violence demand complete rewritings with new perspectives and attitudes on Indian impacts on American history.

The Indian influences that I enumerated sketchily above all came to the United States in the 1960's and 1970's, making Americans aware, at last, that the nation had a capacity for accepting plural cultures and institutions. That awareness permeated all aspects of life and affected thinking on the most fundamental concerns--religion, ethics, morality, even the cycle of existence from birth to death. During the Vietnam War, the cumulative impact of the new attitudes played a role in undermining the pervasiveness and consequences of ethnocentricity in the dominant culture. For a while, it became almost articles of faith that a straight line of "killing Injuns," deep within the American fabric, ran from the treatment of Indians to the imperialistic ventures against the Filipinos to the Korean and Vietnam Wars, and that American had not learned the lesson from its relations with Indians that there were peoples of other cultures and values who could not, and did not have to, accept what Americans believed was best for them, William McKinley, Woodrow Wilson, or Lyndon B. Johnson notwithstanding. It was widely held then that America, thanks to its

new appreciation of Indians, was at last learning the lesson hammered home by the Vietnam experience. Today, it may be argued that many Americans have again forgotten the lesson, but awareness and criticism of their continued, or revived, ethnocentricity have never been absent from the recent public controversies surrounding involvements in the Middle and Far East, Africa, the Caribbean, and Central America.

In the field of law, too, one can detect the modern-day Indians' impact on recent American history. During the fight for civil rights for minorities, the question of civil rights for Indians ran smack into the tribes' quest for self-determination, making clear once again the separateness of Indians within the American body politic. An Indian Civil Rights Act, passed in 1968 and extending the protections of some, but not all, of the Constitution's Bill of Rights to reservation Indians, accepted the existence of tribal laws based on cultural traditions distinct from those of the rest of the population. Avoiding interference with such laws, the Act reflected a growing tendency to strengthen tribal governments, even if ultimate control over them was maintained by the Federal government. To help fight Indian activists, the Nixon Administration emphasized recognition and support of the tribal leaders and their own organization--which the government funded--the National Tribal Chairmen's Association. The trend has been apparent ever since. Court decisions, as well as legislation and executive-branch actions, underscoring the tribal governments' rights to assert a growing number of police, taxation, and other powers, culminated in passage of a Tribal Government Tax Status Act in 1982, which authorized tribes to be treated as states under certain conditions.

In a way, the potential for the assertion of inherent powers of the tribes--first recognized by the clarifying study of Collier and Margold in 1934--was at last being realized. The Tax Status Act of 1982 seemed to imply that the United States had become a nation of three types of governments--Federal, state, and tribal--and, in truth, the Reagan Administration began to talk of Indian affairs as a government-to-government relationship. Actually, Indian tribes were far from having the independence or authority of state governments, since most of their funds came from the Federal government and most of their important actions were still subject to approval by the Secretary of the Interior. In fact, when the Reagan Administration cut their funds drastically in the 1980's, a dramatic rise in Indian unemployment and a return of hardship and suffering on reservations showed just how dependent the Indians still were on the Federal government.

Nevertheless, legal and political attitudes and perceptions had changed. Significant court decisions that ruled in favor of Indians against White adversaries in land, water, fishing rights, and other contentious issues produced public-opinion backlashes against the Indians in the late 1970's. Sympathy for, and interest in, Indians eroded, and voices were again raised for termination. But the court decisions induced western state governments to take Indian rights more seriously than they had heretofore and, responding to pressure from the Federal government, both tribes and states began negotiating with each other as if they were equals.

It is too early to assess the impacts on America of the most recent developments in Indian affairs. The executive and legislative

branches of the national government have both renewed Indian fears of Federal termination. In Congress there are no longer Standing Committees on Indian Affairs in the House, and few legislators paid serious attention to the work of an American Indian Policy Review Commission which Congress established in 1974. After two years of studies, undertaken mostly by Indians, the Commission's report in 1977, with 206 recommendations for Congress to consider, was largely ignored. One could almost hear again the voice of Senator Burton Wheeler: "What we are trying to do is get rid of the Indian problem rather than add to it."

During the late 1970's, the Carter Administration, in a somewhat confusing manner, dealt with Indians as if they were no different from the rest of the population and flirted for a while with the notion of ending the government's historic trust obligation to the tribes. The Reagan Administration of the 1980's has increased the confusion, acknowledging tribal governments and reservations, but showing increasing signs that it would like to shed the financial burdens of Indian affairs. In addition to their reduced spending for Indian services, Reaganites continue the Carter tradition of wanting to treat Indians like everyone else and also have warned the tribes that as the Federal government withdraws from assisting them, they should turn to the states and to income-producing ventures with the private sector.

Several constants remain. It is certain that the Federal government will not readily permit tribes to assume ultimate control over the disposition of their natural resources. But it is also certain that Indian moves toward self-determination, increased self-government, and sovereignty--even some status of dependent

nationhood once articulated by Chief Justice John Marshall--will
continue. It is certain, too, that the Indian presence, with its
diverse heritage and cultures, will go on impacting the rest of the
nation, and will require a better understanding and appreciation by
all non-Indian Americans

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NOTES

¹U.S. Congress, Senate, Hearings on S. 2755, To Grant Indians Living Under Federal Tutelage the Freedom To Organize for Purposes of Local Self-Government and Economic Enterprise, 73d Congress, 2d Session, 1934, p. 264.

²Vine Deloria, Jr., and Clifford M. Lytle, The Nations Within, Pantheon Books, N.Y., 1984.

³D'Arcy McNickle, The Indian Tribes of the United States, Oxford University Press, N.Y., 1962, p. 60.

⁴The literature on the IRA and attacks made on it is large and growing. With profit one might consult, for example, such works as the following: John Collier, From Every Zenith, Sage Books, Denver, 1963; Deloria and Lytle, The Nations Within, cited above; Harold E. Fey and D'Arcy McNickle, Indians and Other Americans, Harper & Bros., N.Y., 1959; Lawrence C. Kelly, The Navajo Indians and Federal Indian Policy, 1900-1935, University of Arizona Press, Tucson, 1968; Lawrence C. Kelly, "John Collier and the Indian New Deal: An Assessment" in Indian-White Relations, ed. by Jane F. Smith and Robert M. Kvasnicka, Howard University Press, Washington, D.C., 1976; Donald Parman, The Navajos and the New Deal, Yale University Press, New Haven, 1976; J. P. Kinney, Facing Indian Facts, The Village Printer, Laurens, N.Y., 1973; Kenneth R. Philp, John Collier's Crusade for Indian Reform: 1920-1954, University of Arizona Press, Tucson, 1977; Michael T. Smith, "The Wheeler-Howard Act of 1934" in Journal of the West, X (3), July, 1971, pp. 521-534; Graham D. Taylor, The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization

Act, 1934-45, University of Nebraska Press, Lincoln, 1980; Graham D. Taylor, "The Tribal Alternative to Bureaucracy: The Indian's New Deal, 1933-1945" in Journal of the West, XIII (1), January, 1974, pp. 128-142; Lyman S. Tyler, A History of Indian Policy, U.S. Department of the Interior, Washington, D.C., 1973; and Richard C. White, The Roots of Dependency, University of Nebraska Press, Lincoln, 1983.

⁵D'Arcy McNickle, "Commentary" in Smith and Kvasnicka, Indian-White Relations, cited above, p. 255.

⁶Wilcomb E. Washburn, "A Fifty-Year Perspective on the Indian Reorganization Act," American Anthropologist, 86 (2), June, 1984, pp. 287-288.

⁷McNickle, "Commentary," cited above, p. 252.

⁸House Report 2503, 82d Congress, 2d Session, p. 16.

⁹See Larry W. Burt, Tribalism in Crisis, University of New Mexico Press, Albuquerque, 1982; also Gary Orfield, A Study of the Termination Policy, 1964, and "Termination, Destruction, and Restoration" in Indian Self-Rule, Institute of the American West, Sun Valley, Idaho, 1983, pp. 16-18.

¹⁰Robert Fay Schrader, The Indian Arts and Crafts Board, University of New Mexico Press, Albuquerque, 1983.

¹¹Alvin M. Josephy, Jr., Red Power, McGraw-Hill, N.Y., 1971.

THE IMPACT OF INDIAN HISTORY ON THE
TEACHING OF UNITED STATES HISTORY

Commentary on Alvin Josephy's Major Paper

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There is a basic Indian policy theme that emerged with the trade and intercourse acts and the Constitution of the new nation, was re-emphasized in Chief Justice John Marshall's decisions of the 1830s, and has remained stridently apparent in the roller-coaster-like shifts in federal policy during the past fifty years. The theme is the interplay between two basic policy concepts: Indian self-determination on the one hand--that is, the extent to which Indian nations enjoy sovereign rights vis-a-vis local, state, and federal government; and federal trust protection on the other--that is, the nature and extent of the federal government's obligation to husband Indian material and human resources for the benefit of Indian nations.

The two policy concepts are ultimately contradictory. The greater the federal government's span of trusteeship control over Indian resources, the more circumscribed are the Indians' options for self-determination. What keeps the interaction lively between the two is that while both have legal justification, neither has been defined clearly enough to provide unambiguous policy guidelines to cover all specific issues. Furthermore, events of the early and the middle

years of this century have shown that neither concept is acceptable when imposed at its logical extreme. Heavy-handed government intervention for the sake of trusteeship was as hurtful as imposing the termination of federal support upon Indian groups--this last become a chaotic effort to "free" Indian tribes in the 1950s as described by Alvin Josephy.

I would argue that it is presently to the advantage of both the Indian nations and the federal government to keep the interpretations of these two policy principles fairly vague, despite the federal government's eagerness to get things settled for once and for all. The present condition offers Indian leaders the political flexibility to come to Washington to berate the Bureau of Indian Affairs for shoddy trusteeship in its handling of Indian mineral leases, and then to declare heatedly that their self-determination is being thwarted by the government's handling of the costs of contracts negotiated with various tribes. On the other side of the table, our presidents can proclaim a lasting "government to government" relationship with Indian nations while cutting back federal funds and forcing tribes on to the none-too-tender mercies of the states and private corporations for their economic survival.

In addition to this basic, contradictory theme, there is another condition that bears heavily on recent policy shifts (and those of the past, for that matter): Indian tribes still hold title to critically important natural resources: coal, oil, uranium, natural gas, timber and water. Their rights of access to fishing grounds have been upheld. Many of the largest reservations lie along the so-called "energy corridor" extending from the southwest to the Canadian border,

while the mineral wealth of parts of Alaska held by native corporations is still being calculated.

These entitlements exist for no other racial/ethnic minority in this country. And they have raised the stakes in the policy interplay of self-determination and federal trust protection.

I want to use these basics to guide my comments on some high and low points of recent Federal Policy.

There's no question of the importance of the Indian Reorganization Act of 1934. Its thrust toward self-determination is particularly evident when compared to what was going on in Indian policy in the 1920s. Yet close examination of tribal constitutions reveals there was still a lot of power over tribal affairs reserved to the federal government; the secretary of the interior's approval was needed for a long list of potential tribal actions.

As Wilcomb Washburn (1984:283) and others (e.g., Bee 1981:92ff) note, the structure of the tribal governments created under the IRA was not like that of the traditional Indian governments. It was instead a compromise between what Collier determined the tribes needed and what he felt Congress would recognize as "real" or "legitimate" government. Collier hoped the IRA would re-kindle the dying sense of community among those voting to accept it (Steward 1969:8). The anthropologist Julian Steward (one of those involved in implementing the IRA) looked back to Collier's effort and declared that it was based on a vain hope; that whatever sense of community once may have existed among these groups was ground away by the preceding years of contact with Whites and their government (Steward 1969:14-15).

Collier himself viewed the creation of a tribal government and

constitution "as merely preliminary" to what he felt was the cornerstone of the new policy: the transformation of the tribes into chartered business corporations, each tribal member to be a member of a corporation and share in its benefits.¹ The corporate directors would be the elected members of the tribal council. By this means, he apparently hoped, the ancient sense of community could grow again along a trellis modeled on twentieth-century capitalism. Hindsight suggests that the corporate structure that Collier envisioned may not have been such a good thing after all: it creates an unhealthy conflict in tribal governments between the obligations of governance and the needs of profit-making (see Brophy and Aberle 1966:31-32). Yet the corporation model emerged again in 1971 in the Alaska Native Claims Settlement Act. At any rate, not all of the tribes that formed governments along the lines of the Indian Reorganization Act took the additional step of becoming chartered corporations, perhaps not so much because they mistrusted the concept itself, but rather the legalistic language in which the charters were drafted. Besides, with little business capital and no immediate prospects for resource development at that time, the social and economic goals of the chartering process must have been difficult for most Indian rank-and-file voters to identify with.

So the IRA as it unfolded was not quite what anybody wanted, but--to echo Alvin Josephy and Wilcomb Washburn--it created a political structure that helped stave off the obliteration of tribal communities and their resources (Bee 1981:93). And it was that structure that strengthened the Indians' political hand in later confrontations with state and federal authorities. Washburn notes

that it was a structure born partly of hopes held by some for Indian assimilation; if so, in time it ironically became a structural prerequisite for effective Indian resistance to non-Indian political domination (cf. Washburn 1984:287).

Alvin Josephy's essay touches upon the land-claims settlements (launched by 1946 claims legislation) as a contradictory interplay between the intent of assimilationist policy-makers and the effect of those policies on tribal communities. I would emphasize more strongly than he did the fact that land claims settlements later put large amounts of capital in the hands of some tribes and gave their tribal governments valuable first-hand and largely unprecedented experience in planning economic development. To be sure, most tribal governments receiving funds were under intense pressure from their people to distribute the money on a per capita cash basis, and some of the cash went that way. But between the 1950s and now, land claims settlements have provided a vital source of business and tribal administration capital for some tribes struggling to create self-sustaining economic infrastructures for their communities--funds they otherwise would not be able to lay hold of. An assimilationist policy thus became a means for some groups to resist assimilation by helping to strengthen the economic ties of Indian people to their reservation communities.

The termination policy of the 1950s was done in by the dirty-tricks excesses of its own proponents and the awful effects of its imposition (Burt 1982). As Alvin Josephy points out, it was of vital importance in strengthening the tribes' will to resist assimilation and in inciting them to forge more effective pan-Indian political networks. It is possible to argue that the termination

policy was exactly what was needed to temper and refine Indians' political vigilance and strategy. It did not create the confrontational nature of federal versus tribal relations, since they had been intermittently confrontational for decades before. But it certainly strengthened the confrontational theme in dealings with the government, and in this way helped to pave the way to more militant tactics of the early 1970s.

But the enhanced pan-Indian perspective and action in the years following 1953 were still short of a well-oiled, lockstep political march to the tune of concisely formulated strategic goals. When push came to shove, tribal economic and political interests still usually prevailed over pan-Indian ones. And if political factions within tribes were drawn closer together in their condemnation of anything smelling like termination, there was still plenty of room for disagreement among them about how best to resist such threats. There was--and still is--a measure of ad hoc-ery to pan-Indian political expression, together with an active unwillingness to hitch the tribal wagons too tightly to this or that leading star in national Indian politics.

The effects of the War on Poverty policy of the 1960s and early 1970s were ambivalent, if not as contradictory as those of the earlier termination period. On the positive side, anti-poverty programs pumped more of the much-needed capital into tribes, both for long-term economic development ventures, if the tribes so wished, and for family income to meet continuing short-term economic crises. For some tribes the land settlement funds began to arrive at about the same time the federal government was opening up anti-poverty funding for community

development, and the two funding sources could be melded. Too, the involvement of tribal governments as local sponsors of the wide variety of anti-poverty programs gained them some valuable administrative skills and taught them firsthand some important techniques for dealing with Washington bureaucrats eyeball to eyeball (Bee 1982:43ff).

On the negative side, the anti-poverty programs did relatively little to lessen the tribes' dependence on federal funding, and thus their ultimate dependence on budgetary and legislative decisions made by non-Indians for non-Indian political reasons. Furthermore, the anti-poverty policy ran the risk of creating the false notion among non-Indians that Indian tribal communities were simply pockets of poverty, and that therefore--never mind the Indians' cultural heritage or unique political and legal status--to eliminate Indian poverty was to eliminate the Indian problem. Indeed a concern about this variation of the American melting-pot notion prompted some tribal leaders to wonder whether they should do very much for tribal economic development, lest it be used as a pretext for the government's cutting back on its trusteeship obligations. The fear of termination, now at least thirty years old, is going to be very slow to die.

All in all, however, neither the War on Poverty nor the land claims funds were sufficient to launch widespread economic vitality on Indian reservations: basic maintenance at slightly improved levels, perhaps; nicer houses, health programs, an overly-enthusiastic construction program for shopping malls and tourist spas; and an improved fiscal basis for tribal administration. But not much more in most cases. Whether devised as a means of paying off tribes for once

and for all, as the land claims, or as a means of helping them to become economically viable communities, as the War on Poverty, both these policies involved the issue of federal trusteeship; neither did much for husbanding Indian resources effectively. Many tribes still lack the economic wherewithal to break away from the dreary strategy of leasing their valuable resources to non-Indian developers for the sake of short-haul income instead of developing them themselves for long-term and much more lucrative profits.

President Reagan would have tribal leaders depend less on the government and cozy up to private corporations as a way out of the economic problems of Indian America.² Assistant Secretary of Indian Affairs Ken Smith recently declared that good old American entrepreneurship is needed by those leaders (see Bee 1983). Yet it's most difficult for tribal leaders to opt for long-term corporate collaboration while their constituents are clamoring for short-term economic relief. The leaders' political lives may well depend on their ability to find quick fixes for economic problems: leasing again. And this assumes those tribes have something somebody wants to lease!

By the early 1970s Indian concerns about self-determination had spawned two different tactical patterns in relations with the government. One was militant confrontation, often touched off by local level incidents as in the series of clashes in South Dakota and Nebraska. These outbursts underscored the fact that while federal policy formulation and implementation had been shifting between self-determination and trusteeship for years, the local face-to-face relations between Indians and non-Indians had remained persistently

tense, as had some relations between political factions within the tribes themselves. Whatever their immediate cause, however, self-determination was a major issue of the conflicts; and they had in common the ability to get the public's attention in a hurry.

In 1978 I was on sabbatic leave and, through the generosity of the Friends Committee on National Legislation, was included in discussions surrounding the plans for welcoming the Longest Walk into Washington that summer. In the planning phases I recall there was a good deal of concern that nothing like the BIA takeover of six years earlier would occur: we used adjectives such as "peaceful," "spiritual," and "educational" in abundance to distinguish this particular coming of the Indians from that earlier one. As it turned out, the Longest Walk was peaceful, spiritual, and educational. And it was quickly forgotten by a jaded Washington anxious to finish its business and be gone for the summer. Not so with the earlier coming, which Alvin Josephy witnessed firsthand. As he noted, the Bureau of Indian Affairs has not been the same since then. The BIA takeover and Wounded Knee a few months later got some action from Washington, however predictable that action may have been. When it comes to getting the federal government's attention, a wooden plank smacked across the forehead seems to work better than the "we-won't-make-trouble-we-just-want-to-talk" approach. Perhaps, viewed retrospectively, the Longest Walk should have done some stomping once it hit the nation's capitol.

I want to assign more importance than Alvin Josephy did to the flurry of activity following and partly activated by Wounded Knee II in 1972. The resulting two-year survey of conditions in Indian

communities was the most far-reaching in 50 years, and perhaps the most far-reaching in American history. The American Indian Policy Review Commission developed a long list of 206 recommendations (American Indian Policy Review Commission 1977:11-45). Then as the second phase of the planned policy overhaul, the Senate approved the formation of a select committee to begin converting the recommendations into laws. Since its creation in 1977, the Senate Select Committee on Indian Affairs has been extremely active, despite its being hobbled by a temporary status and by occasional members not sympathetic to the American Indian Policy Review Commission's work. Much of its time was spent trying to stay alive; that, at least, is now behind it because it became a permanent Senate committee by a vote just this past June. The House remains a bottleneck with no permanent standing committee solely concerned with Indian affairs, but if the new Senate Indian Affairs Committee can maintain its legislative productivity, some important policy overhaul may still be on the way.

For some tribes a different and a more effective tactic, also building its momentum in the early 1970s (although it has been going on in some cases for years earlier), was the carrying of confrontations with states, the federal government, and non-Indian economic interests into the courts--or at least making serious threats to do so. This still amounts to laying a board up the sides of the heads of the federal government and other parties, but within the White people's own structures, according to the ground rules laid down by White peoples' laws.

Non-Indian observers might criticize the Indians' tendency to "dash to the courts" at the slightest perceived provocation. Yet the

trusteeship obligation is seldom taken seriously by political powers in high places, particularly when non-Indian economic interests are intimately involved--as they are in the exploitation of Indian resources. It is seldom taken seriously, that is, until those powers are threatened with long and very costly court suits. And the rights of sovereignty or self-determination seldom are simply handed over to tribes by the federal government without some prior court action.

This is not to declare that all Indian suits are well advised or based on solid evidence. There have been some frivolous threats. But there have been suits of real substance, such as that of the Passamaquoddys and Penobscots in Maine, that have given rise to the negotiated settlement--out-of-court negotiations between the parties in conflict that result in an out-of-court settlement--as an increasingly frequent and important influence in the formulation of federal Indian policy. Ultimately, the suits and negotiations reveal the dynamic interplay between self-determination and federal trusteeship.

This brings me back to the earlier assertion that the structure for tribal government provided by the IRA fifty years ago has helped to preserve these two principles in Indian policy. We non-Indians have never quite seemed to get rid of our "take-us-to-your-leader" preoccupation: The idea that only certain people are authorized to make binding decisions according to a divinely inspired hierarchical system, and that local native governments must undergo some sort of rite of passage to become "legitimate" governments before we can properly deal with them. The IRA granted such legitimacy³ to most Indian tribes, and by doing so has made it very difficult for the

wishes and rights of these governments to be casually thrust aside by states, corporations, or the feds in battles over who shall control valuable natural resources or regulate internal tribal affairs. Laws, plus the continuing entitlement to resources owned by Indian communities operating within an officially-recognized structure, are crucial cards held by tribes today in the complex, high-stakes policy interplay of self-determination and federal trusteeship. We must all be concerned with how these cards are to be played.

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FOOTNOTES

¹Letter, John Collier to Ray C. Bennett, Member of the Arizona House of Representatives from the Yuma district, April 23, 1934.

²President Reagan's official statement on Indian policy (1983) declares that "It is the policy of this Administration to encourage private involvement, both Indian and non-Indian, in tribal economic development. In some cases, tribes and the private sector have already taken innovative approaches which have overcome the legislative and regulatory impediments to economic progress."

³By asserting that the IRA granted what non-Indians perceive as a "legitimate" governmental structure, I do not mean that the IRA structure, or the rights or qualifications of particular office-holders to serve in an IRA government, are necessarily considered legitimate by all political factions within any given tribe.

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THE IMPACT OF INDIAN HISTORY ON THE TEACHING OF UNITED STATES
HISTORY: A TEXTBOOK AUTHOR'S PERSPECTIVE ON THE RECENT PERIOD

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I want to thank Fred Hoxie and the McNickle Center, not to mention the NEH, for the opportunity to participate in this conference on "The Impact of Indian History on the Teaching of U.S. History."

I am very happy, too, to be able to appear on this panel with Alvin Josephy, whose paper I will be commenting on. Mr. Josephy has been a leader in the field of Indian history for twenty-five years, since the publication of The Patriot Chiefs. And he has clearly demonstrated his skill and knowledge this afternoon.

But I'm happy to meet Alvin Josephy for still another reason. He is one of a handful of historians whose books not only edify his professional peers, but also inform a large public readership. Mr. Josephy is one of us who does scholarly research. Yet unlike most historians, he brings this up-to-date scholarship to the public in a style that is compelling and unambiguous. As I read his paper, I wondered to myself how many people in the 1960's, particularly students, read The Patriot Chiefs and were awakened and politicized in the process. And Mr. Josephy did this not by editorializing, but by telling the story and telling it well. History can provide a public service. And my hat goes off to Alvin Josephy for being a positive role model for the rest of us.

When Fred Hoxie approached me about appearing on this panel, I asked him what I, a non-expert in Indian history, could possibly add to these proceedings. He responded in a letter with the following job description, and I have taken his words as my charge. Fred wrote:

. . .I would like you to see yourself as a mediator between the "expert" panelists and the conference participants. You are in a sense, like them, a newcomer to the field. Do the assertions and arguments [presented here] make sense? How significant is Indian history in the recent era anyway? What does it tell us that is significant about American culture or American institutions?

Fred Hoxie's questions were on my mind as I read Mr. Josephy's paper.

I also knew that I had been invited to this conference because I am the author of the 1933 to-the-present portion of a successful textbook, A People and a Nation, which I wrote with a group of historians who were committed to producing a book that integrated the best of the new social and cultural history with the best of political history, old and new. And this brings me to Fred Hoxie's final definition of the role he saw me as playing this afternoon: "I would like you to play the role of educated outsider, textbook author, and teacher."

So, with these duties in mind, let me begin.

Since in my work on recent America I try to touch several bases of social and cultural history, namely, racial, ethnic, and now psychosocial history, I have used these as my yardsticks for assessing

Mr. Josephy's essay on "The Impacts of Recent American Indian History."

Anyone today who reads the new social and cultural history recognizes that Indian history has been both the cause and the effect of important historiographical trends. For one thing, historians no longer search for the elusive symbols of "The American Character." In the 1960's the consensus mold was smashed, as historians began the process of disaggregating society and writing the history of a wide variety of racial, ethnic, and religious groups. Indian culture and history became components of this new history. Just as important, Indian history has helped us to understand cultural traditions under change. In other words, how have Indians adapted to modernization? What has been the impact of technological change on Indian cultures? And what does our study of Native Americans tell us about the ethnohistorical dimension inherent in all social experience? Finally, as we know, Indian history has had an important methodological impact on the new social and cultural history. More than scholars in other fields, Indian historians have used folklore, oral interviews, material culture, environmental impact analyses and other techniques to understand the history of people who left little written record of their own. And Indian historians are conversant with anthropology, linguistics, ecology, geography, epidemiology, and other disciplines. As we have heard at this conference, "social history may well be the area of Indian history's greatest impact."

And yet, as I thought about the impact of recent Indian history, one idea struck me immediately. And it was this: while Indian history has had a growing influence on the writing of recent history,

the history of American Indians themselves, having arrived on this continent long before all others, is sui generis. It is different from the history of Afro-Americans and of other racial and ethnic groups. And this difference is, I believe, heuristically important for the teachers and interpreters of United States history. Let me tell you why.

Historians and other social scientists have constructed models to explain American ethnicity and the relationship of ethnic and racial cultures to the mainstream society. In my work I have found two models to be crucial to understanding these cultures and the tensions between them and the majority culture. The first model was posited by W. E. B. Du Bois in 1897, the second by Herbert G. Gutman in 1973. But as persuasive and suggestive as these models are, they do not explain Indian history.

In 1897 the Atlantic Monthly published W. E. B. Du Bois's article "Strivings of the Negro People," which contains the most potent single insight into Afro-American history. Speaking of himself and his race, Du Bois wrote:

One ever feels his two-ness--an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder. The history of the American Negro is the history of this strife--this longing to attain self-conscious manhood, to merge his double self into a better and true self. In this merging he wishes neither of the older selves to be lost.

He does not wish to Africanize America, for America has too much to teach the world and Africa; he does not wish to bleach his Negro blood in a flood of white Americanism, for he believes. . .that Negro blood has yet a message for the world. He simply wishes to make it possible for a man to be a Negro and an American without being cursed and spit upon by his fellows, without losing the opportunity of self-development.¹

Herbert Gutman's model appeared seventy-six years later, in an American Historical Review article entitled "Work, Culture, and Society in Industrializing America, 1815-1919."² Like Du Bois, Gutman wrote about tension--the tension between one's culture (defined by one's ethnicity, religion, language, folklore, lifestyles, and work experience) and the societal realities of modernizing America that pressed in on all sides. In Gutman's article, he elucidated the continuing tension in American history between preindustrial values and institutions and industrial values and institutions. Throughout our history, new waves of rural, preindustrial peoples have had to contend with a factory discipline that was dominated by the clock. Beginning with the Lowell textile mill girls in the 1820's and 1830's, these new waves have included the Irish in the 1840's and 1850's, southern and eastern Europeans in the closing years of the nineteenth century and the early years of the twentieth, and Afro-Americans during World War I and afterwards. All of these peoples had to try to resolve the tensions between their native culture and the harsh

demands of organized industrial society.

Du Bois's and Gutman's models are similar, but neither, it seems to me, correlates nearly as well with Indian history as it does with black and ethnic history. More than any other group in the United States, Indians and their culture in recent history have to be understood on their own terms, not just in terms of their relationship with other groups. Native Americans, of course, have known this all along. This was the message that John Collier conveyed in the 1930's, and this was the lesson of the Indian protests of the late 1960's and 1970's. As Alvin Josephy has told us this afternoon, Indian militancy has "made many Whites recognize and accept for the first time the right of Indians to be Indians, the wrong of trying to force them to assimilate, and the obligation to permit Indians to speak and decide for themselves."

Although Native Americans certainly felt the tension between their culture and the mainstream society, I believe the tension they felt was far less than that experienced by blacks and by white ethnics. The reason is that Indians have had less of a desire to assimilate than the other groups. Indians felt no sense of cultural inferiority upon contact with newcomers, the Europeans. In approaching the writing of recent Indian history, this insight has been my first. As such, it has been my measure for appraising such events in recent history as the accession of John Collier to the directorship of the BIA and the passage and impact of the 1934 Indian Reorganization Act. I am glad to be in agreement with Alvin Josephy, who has told us that Collier was "ahead of his time. Most importantly, perhaps, he struck a blow--though little recognized at

the time, save as it concerned Indians--at the reigning melting-pot concept." Likewise, this has been my insight into such later events as the Indian opposition in the 1950's to termination and relocation, and the reemergence in the next decade of Indian militancy.

Alvin Josephy has also corroborated the second insight I have employed in trying to integrate Indian history into recent history. In describing Indian policy during the McCarthy era of conformity, he cites the observation that Indians were "like the miner's canary, the signaller of what was in store for everybody." Just as it is important to understand the Indian Reorganization Act within the context of New Deal liberalism, so it is important to understand termination and relocation within the context of the 1950's political and economic conservatism, its "end of ideology," and its emphasis on homogeneity and the melting pot, not on cultural diversity. In this way, Indian policy offers valuable clues to American social thought and thus becomes part of the cyclical American history of reform and reaction.

While my first insight helps to explain cultural separateness, the second explains the political relatedness of Indians' concerns to concerns expressed by other people at the same time. In discussing recent Indian rights movements, Mr. Josephy enumerates the context in which "the Indians strove for what they wanted and to which. . .they, in turn, made profound contributions of their own that greatly influenced non-Indian society." This context consisted of "the spread of nationalism, the emergence of Third World nations, the rights revolution in the United States, particularly the struggle of the Blacks, the opposition to the Vietnam War, the self-examination of

ethnocentricity, the new attention paid to all American minorities, the recognition of the values of cultural pluralism, and the search by Western youth for alternative cultures and lifestyles. . . ."

Having discussed two ways in which Indian history has had an impact on the writing of recent history, let me express the fear that my amateur model-building can produce distorted history. But I, like most non-experts in this field, have a bone to pick. And it is that historians of Native American in recent history have not provided us practitioners with models or concepts to help us understand the past 50 years of Indian history. Mr. Josephy's paper, while it informs us about the period from 1934 to the present, does not provide a conceptual framework for interpreting and teaching this subject.

I will tell you what I think we need. For one thing, we need a model that will distinguish among the experiences of different kinds of Indians in recent history. It is clear that the lives of reservation Indians have been very different from those of either assimilated Indians or Indians who live a back-and-forth existence, perhaps working in an urban area and returning to the reservation on the weekends. Obviously, each group has a different relationship to Indian culture and history. Perhaps the history of urban Indians can be illuminated by Du Bois's or Gutman's model. We also need to distinguish between different reservation experiences--for example, the differences between tribes that lived in isolation from white people and tribes that were surrounded by constant white hostility. Finally, we need models based on Indian assumptions and orientations. For recent history we need the kinds of insights which historians like James Axtell, Richard White, and others have applied to the eighteenth

and nineteenth centuries.

Since I have been invited here because I am a textbook author, I would like to explain something about the process of textbook "development" and publishing. At this juncture, too, I am afraid I have to depart from Mr. Josephy, who derides not only "young history professors" who chose Indian history in order to "acquire instant recognition and advancement as experts" and "to cash in on the new demand for works on the First Americans," but also textbook writers and publishers, whom he seems to find equally mercenary.

I must rise to my own defense, and to the defense of others here who have written textbooks--for example, Tim Breen--or who are currently writing such books--for example, James Henretta. There is no doubt that textbook writers and publishing houses are in the business to make money, but it is unfair to imply that we are money-grubbers. The authors in my textbook project believe we have a real intellectual challenge to confront and master. It is also unfair, I believe, to state that "to this day, history texts are still largely unsatisfactory derivatives of the past as they refer to Indians." To prove this point, Mr. Josephy refers to "such recent basic works as those by the history giants, Samuel Eliot Morison, Henry Steele Commager, and Richard Morris. . ." But these are not recent works. And, believe me, some recent textbooks do make a sincere and determined effort to convey to college students the best of the new scholarship in Native American history. Rather than write the kind of book which Mr. Josephy disdains as "simply out-of-date at best and mischief-making at worst," we have tried to make intelligent use of the most recent studies and concepts.

During the past 20 years, as we know, historians have been rewriting the story of the United States. Much of this new literature is social and cultural history, but until our book A People and a Nation was published in 1982, no survey textbook had incorporated this new knowledge and these new insights. Now that has been done; and more books are on the way. I think it is safe to say that our approach of integrating this rich social and cultural history with political history has become the new paradigm in U.S. history textbook writing. I must add, however, that if we had not done this first, another team of textbook writers of our generation surely would have done so. In addition, it is important to look at who is involved in these projects and what credentials they bring to the task. Can one accurately claim, for example, that in writing the pre-1800 history of the United States, historians such as Mary Beth Norton, Tim Breen, and James Henretta are uninformed about Native American history and that their writings are "out-of-date" or "mischief-making?"

Historians writing textbooks in the 1980's have a unique opportunity to buck the political tide and reach politically conservative students and unconcerned students. After all, students do not adopt textbooks; their teachers do. And many professors received their graduate training in the 1960's and early 1970's, when so many bright students were breaking with their mentors and entering the domains of Afro-American and ethnic history, women's history, and working-class history, as well as Indian history.

Just as Alvin Josephy's The Patriot Chiefs was published in the consensus era of the early 1960's and would give students another view of American history, so these new textbooks are being used in the

1980's to edify the most conservative segment of our population--that is, whites under the age of 30. I think we all have an opportunity to make a difference--an opportunity to be subversive. But to do so, we need not only narrative Indian histories, but also models and concepts for making significant generalizations. This is particularly true for the recent past. To paraphrase a remark made almost 45 years ago during the battle of Britain by Winston Churchill, "Give us the models and we'll do the job."

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ENDNOTES

¹Atlantic Monthly, LXXX (August 1897), 194-98.

²American Historical Review, LXXVIII (June 1973), 531-88.

Night Thoughts on Native American Social History

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When Fred Hoxie invited me to participate in this conference by presenting a paper on "social history," I readily accepted. It was only afterward when I started to think through what I might say that I experienced perplexity. The assigned topic, "social history," seemed rather diffuse and open-ended. I had difficulty imagining an asocial history. The miracle that Native American cultures still survive, and in many instances flourish, despite almost five centuries of intentional and unintentional policies of genocide, ethnocide, and directed culture change, is underappreciated. This persistence certainly testifies to the strength of a continuous sense of collective identity engendered through abiding ties of kinship and community.

Yet there is a recognizable intellectual movement called social history that has self-consciously broken with previous approaches to history. Primarily centered in Europe, this movement has already influenced American scholarship profoundly and promises to exert a significant impact on future historical research concerning Native North America.

I will organize my remarks on social history under three sub-headings: first, "What's Going On"; second, "Where We've Been"; and third, "Where We Should Be Going." These rubrics at first glance correspond to our familiar tripartite temporal divisions of present,

past, and future. However, such a correspondence deflects my aim, since "What's Going on" has been going on for some time, at least extending into a near past, and it threatens to project into an unknowable future. Similarly, "Where We've Been" will be perceived as a cumulative and progressive past and a still prevalent now pushing into an indefinite beyond now. Finally, "Where We Should Be Going" will express some personal preferences for a conditional future premised on a putative past and a privileged present. Any tension produced by my contentious, if not pretentious, sense of tense may be reduced by considering each of the categories as imbued with eternal qualities of "everywhen."¹

I. What's Going On

The modern movement toward "social history" derives from a confluence of several sources, but any derivation that failed to consider the Annales tradition would be deficient.

The publication of the Annales was begun by Marc Bloch and Lucien Febvre in 1929 as an effort to rescue the study of history from constriction caused by an almost exclusive focus on political history, individual personalities, and short-term events. The editorial policy of the Annales sought to open up historical research to previously ignored topics and encouraged closer rapprochement with the social sciences in the hope that a clearer understanding of the present might illuminate the past.

If the traditional version of the history of history be accepted as a sequential transformation from annals to chronicles to "true"

interpretative history, then the very title Annales may represent a symbolic return of the surpassed, a journey back to primary, descriptive beginnings. The Annales approach is avowed in the publication's subtitle: "Economies, sociétés, civilisation." Besides reflecting diverse approaches to historical subjects, this tripartite emphasis represents an analysis in terms of levels. Economics, which includes geographic situation, demography, and material culture, provides the bedrock that supports a distinctive social structure, which in turn gives rise to the particular character of the civilisation. Civilisation implies a particular mentalité or mode of thought and can also be satisfactorily translated as 'culture,' in its modern anthropological sense.

Fernand Braudel in the preface of his magisterial study of The Mediterranean and the Mediterranean World in the Age of Philip II, and in his more recent trilogy on Civilization and Capitalism, the 15th-18th Century, clearly delineates three levels of history. The first level is geographical and concerns human relations to the environment and is characterized by imperceptible change, repetition, and recurrent cycles. This timeless history is more than background setting; it represents a chronic force. Braudel's second level is social history, which displays slow but perceptible rhythms with swelling tides of change in social groups and institutions. The third level comprises traditional or conventional history as constructed on the scale of individuals and events. Braudel sees traditional history as consisting of brief, episodic fluctuations that he likens to surface disturbances. This level offers superficial explanations that do not penetrate to the deeper, more submerged currents of history

which remain unsuspected by either observers or participants.

The levels of environmental and social history, with their focus upon longer-term realities, can be seen, in their horizontal aspects, to comprise structure or structural relations, while traditional history, with its shorter-term realities, has a more vertical orientation that constitutes conjuncture, or temporal contingency. The interaction of structures and conjunctures, or long-term processes versus short-term events, poses fundamental contradictions that confront any student of history; indeed, the more things change, the more they are the same and vice versa.

A somewhat similar three-tiered model is proposed by Braudel in his stimulating study of Capitalism and Material Life, 1400-1800, where material life, the subject of most of his book, is regarded as the relatively passive, repetitive, "ground floor of history," while economic life represents a more active, expansive level and, finally, capitalism constitutes a third-stage super-system that encroaches on all prior forms of life, economic and material.

This general notion of levels, of surface events and deep structures, and the assumption that cultural or superstructural phenomena not only presuppose but are determined by such infrastructural levels as social organization and environment, makes this scheme congenial to Marxist theories of history, to the Parsonian theory of social action, as well as to modern varieties of structural analysis, and to other unlikely bedfellows. Yet, as we shall see, levels ultimately must be regarded as heuristic devices and not all of the assumptions of the French social historians need be accepted without question.

The Annales approach to social history contains several other themes worthy of brief mention. The focus on social groupings and institutions has served to exclude consideration of the individual as a significant force in history. At best the individual appears only as an icon of an idea. While not excluding the upper classes or intelligentsia as factors in historical process, social historians have paid special attention to the everyday life of commoners and of diverse occupational groups and socio-economic statuses. Richly detailed descriptions of material culture, folklore, family structure, and ceremonial life have become the hallmark of such social historians as Braudel, Emmanuel Le Roy Ladurie, Philippe Ariès, and others. Social historians take special delight in tracing topics off the beaten tracks of mainline historiography. The late Michel Foucault looked at punishment, clinics, and sexuality; Ariès studied the life cyclical extremities of childhood and death; and Le Roy Ladurie meticulously reconstructed festivals. These embroidered ethnographic accounts often succeed in not only making the pre-modern cultures of Europe, and occasionally elsewhere, more familiar but also serve to make the superficially familiar more exotic.

The strongly positivistic bent of most social historians associated with the Annales tradition also becomes manifest in their seemingly obsessive concern with quantification. Almost anything that can be counted will be. Many of the simple statistical charts and tables come directly from archival material. Statistics, at least until the late nineteenth century, remained true to its etymological origin and primarily referred to social enumerations collected by the state as unfocussed information-gathering devices. In France social

statistics figured prominently in the formative social theories of Montesquieu, La Place, Quetelet, and continued through early Durkheimian sociology. Statistical data, as deployed by most social historians, are mainly used in an adjunctive fashion to illustrate trends and buttress arguments; rarely are statistics used for formal hypothesis-testing. The limitations of such quantitative data in terms of reliability, validity, and sample adequacy are many; often multiple interpretations are possible and the statistical data frequently raise more questions than they render.

Many specifics of the Annales approach seem distinctively French. Yet general similarities can be discovered in Anglo-American efforts at writing social history. In England the works that come readily to mind include Raymond Williams' studies of material and popular culture, E.P. Thompson's penetrating description and analysis of the rise of the English working class, Peter Laslett's reconstruction of The World We Have Lost, Norman Cohn's accounts of Millenarian movements, and Keith Thomas's and Alan Macfarland's anthropologically informed interpretations of sixteenth and seventeenth century English witchcraft beliefs.

In the United States one work stands out as a clear and independent anticipation of the flowering of French social history. Walter Prescott Webb's The Great Plains (1931) not only is solidly grounded in geography, but it sees the white settlement of the Plains as contingent on the presence of three crucial items of material culture--the windmill, the six-shooter, and barbed wire. Moreover, Webb rarely mentions individuals; rather things were accomplished by people.

It is beyond my range of competence to review the varieties, home-grown or otherwise, of American social history. However, even as a casual consumer, some comments seem evident. Certainly there has been a revived interest in historical geography as witnessed by the enthusiastic reception of the works of Alfred Crosby and William Cronon; in demographics as reflected in statistical census studies and in the proliferation of interest in family history; in material culture and technology as exemplified in the elegant studies of rural architecture and artifacts by Henry Glassie; in the exploding interest in popular culture, both past and present; in broad economic analyses based upon the world systems theory of Immanuel Wallerstein, particularly as epitomized by Eric Wolf's provocative book, Europe and the People without History; in Anthony F. C. Wallace's and Tamara Hareven's historical ethnographies of life in factory towns; and in the numerous social histories of various immigrant groups among which Irving Howe's World of Our Fathers is particularly noteworthy.

Yet, within this broad spectrum of American interest in social history, very little deals directly with Native American history. Why this seems to be so and the shape of alternative modes of treating Native American history may emerge in sharper relief when we consider "Where We've Been."

II. Where We've Been

The forthright contemporary historian Charles Tilly is reported to have argued that "history is too important to be left to the historian" (statement of Lee Benson in Graubard 1969:891).² What

Tilly was calling attention to is the need of historians to draw upon the models, theories, and methods of the social sciences to bring forth the significance of their documents. Historians and anthropologists claim overlapping dominion over the scholarly study of American Indian history. The approaches followed by historians and anthropologists have been both opposed and complementary.

In the mid-nineteenth century such luminaries as Parkman, Prescott, and Bancroft synthesized earlier source materials to produce their grandiose, if not grand, epic histories of Indian-White relations. These eloquent and popular writers clearly reflected the political biases of their time. They chronicled conflict, depicted the decline of the Redman, and flowed with the irresistible flood tide of White supremacy. The heroic virtues of some individual Indians might be two-dimensionally recounted, but by and large little sympathy and even less empathy were directed toward Indian society and culture.

Lewis Henry Morgan was acutely sensitive to the limits of naiveté among historians. In a footnote to Ancient Society he asserts,

The historian of Spanish America may be trusted in whatever relates to the acts of the Spaniards, and to the acts and personal characteristics of the Indians; in whatever relates to their weapons, implements and utensils, fabrics, food and raiment, and things of a similar character. But in whatever relates to Indian society and government, their social relations, and plan of life, they are nearly worthless, because they learned nothing of either. We are at full liberty to reject them in these respects and commence anew; using any facts they might contain which harmonize with what is known of Indian society (1877:191).

As we can ascertain from our present perspective, Morgan had blinders of his own. However, in the quotation above he seems to be posing a rhetoric of ethnology against a rhetoric of history. Historians might record events, describe surface features of a culture, but with

respect to the deeper, more enduring social and political structures, their understanding was deficient. Morgan felt that such understanding could only come from fieldwork, such as he had experienced with the Iroquois and certain Western tribes, or from careful comparative analysis of ethnological data to generate models of social relationships that were genuinely alien to Euro-American systems. Morgan can, indeed, be considered a social historian, but one interested in general long-range historical processes. He seemed impatient with the imponderabilia of everyday life, except where such data--be they kin terms, house types, or bedclothes--might provide clues to unrecorded historical relationships.

The legacy that Morgan bequeathed to American anthropology was largely rejected during the ascendancy of Franz Boas and the advent of so-called "historical particularism." The Boasian program called for more comprehensive field ethnography, a movement away from grand evolutionary schemes, and a greater concern with cultural meaning as mediated through language. Historical reconstruction, in the absence of an adequate archaeology or written records, might be pursued by distributional studies of linguistic affiliations and culture traits. However, increasingly Boas felt that each culture possessed its own particular genius or distinctive configuration that made comparison futile.

Except in specific areas like the Southeast, where the traditional cultures had disappeared or been greatly modified, little use was made of archival materials. One case that demonstrates the consequences of deliberate ignorance of written records is Leslie Spier's methodological exercise in tracing the development and

diffusion of the Sun Dance (1921). After decomposing the Sun Dance into 280 discrete traits, Spier plotted the distribution of these traits on tribal maps. The largest clustering of traits occurred in the central area of the Northern Plains occupied by the historic Cheyenne and Arapaho, which suggested this as the center of Sun Dance dispersal. This hypothetical reconstruction would have deserved reconsideration had Spier consulted George Catlin's readily accessible observations in the 1830s of the O-kee-pa ceremony among the Mandans of the Missouri River region, where clear parallels with major features of the Sun Dance are unequivocally evident (1967). Margot Liberty's otherwise useful up-dated survey of Sun Dance research (1980) also strangely ignores Catlin's Mandan data.

While ethnologists stumbled blindly in their efforts to supply time depth to cultures and culture areas without the aid of historical documentation, American historians developed a new expository genre of their own--the tribal history. The prototype of this genre is equivalent to the common denominator of the majority of early volumes in the University of Oklahoma Press's insipid Civilization of the American Indian Series. Prehistory, cultural affiliation, and a timeless, highly condensed ethnographic sketch are compressed into an introduction or initial chapter. With this backdrop we pass directly into the realm of 'real' history and are provided with a chronologically ordered dry-as-dust account of Indian-White relations sifted from primary and secondary Euro-American sources. In these narratives the Indian point of view is either omitted entirely or distorted beyond recognition. Civilization in the series title refers less to a special mentalité, world view, or collective representation of a

particular society than to an unexamined, ethnocentric belief in inevitable progress. Native cultures are confronted with a Hobson's choice of genocide or ethnocide, the gun or the book, extinction or assimilation.

When ethnohistory emerged as a distinct specialty, a middle ground was established for collaborative efforts between historians and anthropologists. Some would deny to ethnohistory the status of a separate subdiscipline but would rather see ethnohistory as an approach involving a critical investigation and evaluation of documents pertaining to an ethnic group that are subsequently subjected to an anthropological analysis to elicit cultural insights (Wedel and DeMallie 1980:110). Others would consider ethnohistory as a synthetic approach that combines ethnology, oral history, and written documents to provide a holistic view of a people's past. Still others, including myself (Fogelson 1974), favor making ethnohistory cognate with other ethno-prefixed disciplines that emphasize a native perspective on particular bounded domains.

A great stimulus was given to ethnohistorical research by the solicitation of expert testimony before hearings of the Indian Claims Commission, which was established in 1946, and in conjunction with more recent cases of state and federal recognition of tribal groups. However, it should be recognized that such cases often imposed certain definitional constraints as to what constituted social groups, land rights, and boundaries, which, while necessary for legal adjudication, nevertheless frequently violated native realities.

In taking an overview of ethnohistorical studies over the past quarter century, one can discern certain trends. Certainly both the

quantity and quality of research has improved dramatically. We now possess a critical density of exemplary monographs; new problem areas have been opened up; and older subjects of concern, such as the fur trade, have been reinvigorated by new data and interpretations.

If earlier accounts suffered from implicit racism and subscribed to the fatalistic inevitability of Indian cultural disappearance, more recently we survived an era of scholarship submerged in guilt-edged tubs of liberal bathos. From this vantage point the Indian was overwhelmed by the technologically superior but morally inferior force of Western Civilization. As a powerless pawn drawn into the chess game of international conflict, the Indian, according to this view, never had a chance. Regarding Native Americans as hopeless victims may be yet a more subtle form of racism, since it strips them of certain attributes of humanity and denies them responsibility for their own actions and destiny. It has only recently become the new ethnohistorical orthodoxy to recognize that Indians were, if not kings, queens or bishops, at least active knights and castles on the colonial and post-colonial chessboard.

Perhaps as a backlash reaction against liberal apologetics, many recent studies espouse a revisionist, or re-revisionist, position whereby formerly negative Indian stereotypes are reevaluated. Thus, the public is reassured that Indians did take trophy heads and scalps before the arrival of Europeans; they did, technically speaking, worship fetishes and idols; and they did, indeed, beat their dogs, torture captives, and practice cannibalism. While the weight of evidence adduced seems convincing, these studies usually fail to probe much below a typological reality and tend to ignore relevant

symbolism, the native meanings of such behavior, and the ethno-metaphysics and ethno-logic intrinsically bound up with such practices.

Probably the ongoing research project that has generated the most discussion in ethnohistorical circles and beyond has been Henry Dobyns' recalculation of aboriginal population figures. Dobyns has consistently argued that early population figures have been woefully underestimated owing to a failure to recognize the devastating impact of European diseases. Most scholars disagree with the magnitude of the miscalculation, some question Dobyns' assumptions and statistical procedures, others worry about his failure to utilize archaeological and prehistoric skeletal material, and still others are bothered with other specific details, but none will deny that the European invasion of the Americas would have been much more difficult without the assistance of pathogenic allies. Moreover, indigenous social structures and cultures probably were much different than those that were observed only after diseases had taken their toll. Dobyns' approach was inspired by the historical demographic work of Cook and Borah, mainly in Latin America. Nevertheless, Dobyns' strong empiricism and his discovery of previously unnoticed factors that had a definite effect on long-term social history should endear him to followers of the Annales tradition.

However, as in the European holocaust or Vietnamese body counts, it is not easy to envision the impact of population decimation by numbers alone. We can intellectually grasp the structural and functional implications of drastically reduced populations, but it is much more difficult to come to a symbolic and emotional understanding

of such events from the perspective of another culture.

Buried deeply in a footnote to his engaging book on The Great Cat Massacre, there is a perceptive comment in which Robert Darnton observes, "While Americans tend to ignore systems of relations, the French generally neglect systems of meaning" (1984:283). Perhaps this exhumed footnote will serve as a suitable transition to the third and final part of this Gauling paper.

III. Where We Should Be Going

One day in the summer of 1965 I was searching for historic Shuswap sites along the Frazer River in British Columbia. My guide, Joe Popp of the Soda Creek Reserve, led me to a sandy bluff, open to the south but protected from the north winds, where we came upon a series of large saucer-like depressions reminiscent of a lunar landscape. The following exchange ensued:

"My grandparents used to live here," said Joe.

[I began to measure the diameters of the former pit houses and commented on how smart the Shuswaps were to have invented such ecologically efficient dwellings.]

"The old people were like animals," continued Joe.

"What do you mean?" I asked.

"They used to go underground in the winter in the Keekalee houses (Chinook jargon for semi-subterranean dwellings) and come out in the spring.... And they died there.... Back when the sickness come they went to the Keekalee houses to die. At night you could hear them singing until they all died out."

Such an account, fragmentary as it is, conjures up more resonant imagery than an entry that might simply state that 62 Shuswap from a settlement north of Alkali Lake perished from an epidemic in 1884.

In Joe Popp's statement we sense the alternating cycles of the seasons, the antithesis of spring and winter, of life and death. In

this account death is a collective event, a social fact. The singing of songs is intended not as a deathknell but as a final invocation of powerful medicine to counteract the evil sorcery afflicting them.

All that I am trying to establish is that behind recorded events and numbing number lie cultural meanings and that these meanings are not mere epiphenomena but possess primary interpretative significance.

Perhaps a hypothetical reinterpretation or a more familiar episode in Indian history will help make my point. The Ghost Dance Religion, particularly its manifestations among the Sioux, has been studied and re-studied for so long that I will consider myself blessed if I never have to read another student paper on the subject. One prominent feature of Ghost Dance ideology was the resurrection of the dead. But how can we hope to understand this feature without examining Sioux beliefs about the process of death and indigenous ideas of eschatology? Siouan mortuary practices were variable, but the dominant form involved scaffold burial with appropriate offerings of grave goods to insure safe passage to another plane of being. The wrapping of the corpse in buckskin, the construction of the scaffold, the accumulation of grave goods, and the conducting of public ritual all involved considerable expenditures of time and energy on the part of living survivors. In situations of multiple deaths the costs rose proportionately. One wonders whether proper burials were carried out in connection with the massive loss of life occasioned by disease, warfare, and famine that frequently recurred during the latter half of the nineteenth century. Perhaps, without proper burial, those who perished under such circumstances were not considered to be "officially" or completely dead. In partial support of this

hypothesis, there does exist a Lakota belief that if a favored child suffers an untimely death, the corpse can be denied burial and be given special ritual treatment and the child will be restored to life (information supplied by Carlo Krieger). Siouan-speaking peoples, along with many other Native American cultures, possess a rich store of Orpheus-type tales (c.f. Hultkrantz 1957). Thus, certain features of the Ghost Dance among the Sioux may be less keyed to the adoption of Christian ideas of millinarian resurrection and more to indigenous conceptions that consider death to be a potentially reversible process.

One could go on to demonstrate that interpretations of such practices as scalping and cannibalism, which have been the subject of so much revisionist attention, might also be profitably reexamined from the point of view of native notions of souls or living essences, spirit adoption, and concepts of power. However, such analysis must be postponed lest it lead us too far astray from our appointed rounds of social history.

Continental social history, as mentioned previously, de-emphasizes the role of the individual in history. In partial contrast, American scholars--anthropologists as well as historians--have tended to single out individual Native Americans as leaders, heroes, and subjects for life histories, even though the idea of biography or autobiography is foreign to most non-Western cultures (c.f. Fogelson 1982). Americans seem almost obsessed with a cult of leadership and tend to ignore what Max Weber recognized long ago: that systems of authority, be they traditional, charismatic, or bureaucratic, must be conceived as social relationships. I look forward to the time when we will see

institutes, training programs, and Newberry conferences devoted to the topic of followership.

Contra Ruth Beebee Hill and her grim fantasy, Hanta-Yo, the evidence seems to indicate that supposed Native American individualism can only be understood as a social phenomenon involving relationships. Perhaps greater conceptual clarity will be achieved if we dispense with the idea of individualism and substitute the notion of personhood, a concept that considers the individual as social being with a distinctive nexus of social relationships that may include other-than-human beings as well as other human beings. Thus what we might initially take to be a quintessential individuating experience, the solitary vision quest, may be seen as the development of a personal identity through social interaction with a culturally-constituted other-than-human person.

From a Native American perspective, persons, as defined above, can be active agents in history, and much historical causation must be considered personal. These historical persons range from personified first causes to later culture heroes, from legendary personages to great people of the recent past, and from important individual personalities of the present to figures of the future. But I've slipped into linear chronology, and we must recognize Native American assumptions that allow first causes to continue to operate, that expect culture heroes to return, that keep legends alive, and that believe great people of the past continue to exist as long as people of the present remember and emulate them.

A native-oriented, folk history or ethno-ethnohistory must take into account the complex interaction of several concurrent systems of

time. A non-exhaustive list could include: cosmological time, social structural time, seasonal time, life cyclical time, prophetic time, and experiential time that can often be classed as time-out-of-time. Most of these temporal orientations are oscillating and repetitive, and non-lineal, if not curvilinear.

For most Native Americans time is marked by events, and these events are more than the temporary surface disturbances that French social historians disdainfully dismiss. Occurences that take place in myths, in folk narratives, and in native historical traditions are often what I term epitomizing events. Epitomizing events brings several forces together in dramatic combination; they condense various subtle changes into a single transformative act. Whether such events actually took place or not is immaterial; they are explanatory mnemonics of the mind and emotional engrams of the heart and, as such, are 'real' for members of the culture.

What I have been arguing for in a re-envisioned social history is greater concern with culturally-constituted meaning. Discussion has centered around conceptions of life and death, notions of person, temporal orientations, and the nature of events. Idioms of kinship and clanship and their embracive metaphorical extensions might have been elaborated in a longer lecture. Finally, systems of time cannot be divorced from intrinsically related conceptions of space, in both the grounded or localized and relational senses. Certainly, misunderstandings between Whites and Indians about the nature of land have been a major motif in their historic and continuing confrontations.

Some day, soon I hope, social history will be written in such a manner that native cosmogenesis and ethnogenesis will be gracefully

incorporated as an integral part of a complexly unfolding narrative rather than as a fleeting frontispiece; such a social history will also heed native prophecy as a powerful voice in articulating that history and in maintaining a special sense of collective density; in short, what is envisioned is a social history that will ring true to native perspectives.

In conclusion, I return to Lewis Henry Morgan's questions about who shall write social history and how that history should be written. We live in an era of increased specialization characterized by even finer divisions of labor and explosive technological developments that threatens to beseige even the ivory tower and take no hostages. At the risk of sounding like an unregenerate, computer-phobic, academic Luddite, let me assert that in my experience the most productive interdisciplinary collaboration takes place within a single cerebrum located under a single cranium. In their 1846 essay on "German Ideology" Marx and Engels anticipate my judgment. They write,

In communist society...where nobody has an exclusive area of activity and each can train himself in any branch he wishes, society regulates the general production, making it possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, breed cattle in the evening, criticise after dinner, just as I like without ever becoming a hunter, a fisherman, a herdsman, or a critic (Easton and Guddat 1967:424).

This mode of existence, which ironically is not unlike that approximated by many Native Americans, might be transposed for the social historian such that he might hunt the library stacks and archives in the morning, engage in fieldwork and collect oral testimony in the afternoon, compile statistics and learn linguistics in the evening, and engage in critical philosophy in the wee wee hours when everyone else is asleep.

Notes

1. "Everywhen" is a delightful gloss offered by W.E.H. Stanner on the Australian Aboriginal notion of "the Dreaming" or "Dream time." This eternal composite of past, present, and future seems analogous to many Native American conceptions of a continuous primordial time.

2. Tilly's statement neatly complements Curtis Hinsley's sentiment, expressed in the preface to his Savages and Scientists (1981:10), that "the history of anthropology...should not be left to the anthropologists."

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3-01

Teaching Indian History and Social History:

Comments and Reflections

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I am an ethnohistorian who until last year had never taught a course in my research specialty: Native American History. Such Indian history as I have taught, I have, from necessity, integrated into other courses, particularly into the American History survey. At the University of Utah the survey not only covers all of American history from contact until the present in ten weeks, but it is taught in classes numbering from one hundred to two hundred students. Most of these students are, as we say in Utah, of the dominant faith (LDS) and (I'm trying to phrase this delicately) possess through divine revelation sources of knowledge about Indian peoples which are not usually relied on either by academic historians or by Indian peoples themselves. I enjoy teaching this course, although, as regards Native Americans, I have few illusions about how my credibility stacks up against the Book of Mormon. I am not telling you this to complain; I am sure many of you face far more challenging conditions. I tell you this because I want you to know that I fully appreciate the difficulties that you face in actually incorporating materials and approaches from conferences such as this one into real courses full of real students who sometimes present unexpected obstacles to your best efforts.

To further reassure you, I have had a great deal of difficulty incorporating Native American History into the classes that I do teach. Partially this is because I am often reluctant to direct broad

classes along the lines of my own narrower research interests, but, more critically, it is because I think that both the survey courses and social history courses should concern themselves with the larger social processes that Ray Fogelson has described. My goal has been to understand Indian peoples in terms of these processes and not to segregate Indians as exceptions or tagends of history. Seeing Indians as simply obstacles to expansion or victims of expansion is not very useful. Nor is the opposing tendency of condescending to them as yet another set of contributors to some American mosaic any more helpful. These are people with significant histories of their own which are worthy of study in their own right, but these historians have been influenced by many of the same processes that have shaped the larger society.

I would agree with Ray Fogelson that the Annales division into structure and superstructure is misleading, and I would prefer to think in terms of reciprocal influences between culture and material life. In this sense certain developments--environmental change, the expansion of capitalism, and a market economy, political centralization, and pressure for cultural homogenization--are critical for understanding both Indian history and the larger American history. It is through these trends that I think Indian history can best be integrated into the larger history curriculum. This approach admittedly sacrifices much of what I find most fascinating and unique about Indian peoples and their cultures. This uniqueness must remain the subject of courses which concern Indian peoples alone.

What exactly do I mean by integrating Indians into a study of larger social processes? Professor Fogelson has dealt with this

broadly. I would like to approach it in terms of actual teaching. What I do not mean is appending an Indian example--Indian women, Indian workers, Indian religions--onto whatever topic is under examination. Rather I mean choosing from the literature instances of change in Indian society which actually give students as good or a deeper understanding of the processes under consideration than would equivalent examples in white society.

Let me give an example of what I am talking about here. One of the most fruitful and controversial topics in social history in recent years has been the question of how, why, and at what pace peoples in North America came to be involved in a market economy and what changes in social life resulted from the expansion of capitalism. Closely connected with this has been a broader question about the expansion of global capitalist systems and the consequences of this for people in both core and peripheral areas. At its most fruitful this question has not been phrased in reductionist or determinist forms which Professor Breen denounced earlier. Such issues have been a major concern in rural history, family history, black history, women's history, labor history, in short virtually all the sub-fields of social history. Anyone teaching a social history course or a survey course considering changes in social and economic life does not have to deal with Indian peoples in considering such questions (although they miss a significant aspect of these processes if they fail to). They can rely solely on the excellent literature now available on farmers, or artisans, or women.

Pedagogically, however, the experience of Indian peoples offers real advantages. In my own attempts to get students to consider

seriously questions about social and economic life in the past, the biggest obstacle I have faced in Utah, in Michigan, and elsewhere, is that my students really don't believe in history; they believe in human nature. To them only the clothing and the equipment changes. The past is really just an extended costume party and the guests are all people just like them. It is as if all of Bountiful, Utah woke up one day and dressed like Puritans for awhile, and then, later, pretended they were all Italian immigrants or Georgia farmers. My students know that beneath all the funny clothes and strange talk are a lot of people thwarted by circumstance: all anyone of them ever really wanted to do was make a lot of money selling real estate.

Well, even my students are willing to admit that Indians as a group are not noted for successful real estate transactions and the reasons may have been, among other things, that their hearts weren't really in it. Students can (for good or bad reasons) be brought more easily to believe that Indian peoples had systems of values and social ambitions considerably different from their own. They realize that everyone has not always been as they are now. Once this is established for Indians, then the possibility might be entertained that not all Americans at all times have shared the same ambitions or values. That, in Annales terms, there are separate mentalities and there is real change. They can even be brought to believe that perhaps capitalism is not just human nature writ large but is a particular historical development which has to be explained.

I must emphasize here that to use Indians simply to establish differences is not enough. After all, racist stereotypes label Indians as inherently different and the romantic appeal of Indians to

whites has always depended on their contrast to white society. Indian differences must not just be stated and abandoned; they must be used to create a clearer perspective on the common processes of change that have also altered the lives of non-Indians.

Let's return to the example of the expansion of market economics and associated social change in this light. Indian history forms an excellent basis for considering such issues for two reasons: first, their history demonstrates how pervasive these larger influences were, and, second, they show that the immediate outcomes of these influences depended very much on the historical and cultural context of the peoples affected. There is a reciprocal influence between material life and culture. There is no simple determinism at work here.

Let me turn to an even more specific example: the fur trade which involved Indians in a world wide system of exchange and which eventually brought far reaching changes to Indian societies. Fur trade literature was once merely the saga of mountain men or large mercantile companies. Its emphasis more recently has been on Indians. The issues at stake are very basic. What more vivid example is there of the expansion of the market and how the histories of different societies interlock than the fur trade which tied Indians into the world economy long before white settlement reached them? This is a significant point which, as Ray Fogelson mentioned, Eric Wolf and also Philip Curtin have stressed in recent books.¹

It is tempting to halt at this point, argue that the understanding of the process of change demands investigation of the centers of capitalist development, not its fringes, and turn attention back to such centers. Indian history warns against such a course. I

think Curtin and Wolf both underestimate the extent to which many Indian peoples (not necessarily all) modified (at least temporarily) and resisted the full impact of these changes. To understand the actual systems of the fur trade demands not just a knowledge of European ambitions and organization but also a knowledge of Indian peoples who were not simply the universal economic men and women of formalist economies.

Here, for heuristic purposes, I would like to defend a book which has taken quite a beating lately (including some kicks from me): Calvin Martin's Keepers of the Game. The book does have numerous flaws and it fails to make its case that Indians hunted out beaver not from profit but because they had undertaken a war on animals in revenge for the beaver's unleashing of epidemic diseases. I think Martin's thesis is unsubstantiated, but he does ask significant questions about Indian motives in the fur trade which will not go away. Martin recognizes that Indians simply do not behave as formalist economists say they should.

That Martin's thesis is wrong does not mean that the literature he criticizes is right. In fact the fur traders had to come to terms with the Indian societies whose motives for and means of exchanging goods were different from those of Europeans as Arthur Ray and Donald Freeman have demonstrated in a fine book, Give Us Good Measure, whose tone sometimes differs from its substance. The fur trade they argued, even when it involved large European firms trading with scattered hunting bands in a harsh environment, could not be explained in terms of the so called economic laws of the market. Nor could it be understood in terms of the normal way goods were exchanged in

societies. Instead a middle ground emerged, "a compromise between the customs and norms of traditional Indian exchange and those of European market trade."²

Indians are pulled into a market system but not all the way. For a substantial period their society changed but did not become merely a cog in a larger system. This kind of examination of the fur trade raises fruitful issues for a broader course. How do large processes of economic and social change affect specific groups? How do these groups modify them? Again Indian history is particularly useful for introducing such questions because their experience reveals how pervasive certain broad patterns of social change can be. Capitalism and the market affect groups, such as those involved in the fur trade, far from the centers of their own developments. But beyond this, Indian history shows that groups which seem to be economically and politically weak can, nonetheless, modify the workings of systems brought by far more powerful peoples. Their history indicates that it cannot be assumed that history consists solely of the dictates of the powerful. The powerful do not get everything their way. Weaker groups can be suppressed but Indians teach us that the less powerful must be considered if we want to understand not winners and losers but how a nation or a world evolves. Admittedly, no one has done for Indians what E. P. Thompson has done for the English working class or Eugene Genovese for slaves, but beginnings have been made. Anthony Wallace's Death and Rebirth of the Seneca still remains an important book in this respect for showing how from the shambles of Iroquois policy in the late eighteenth century Handsome Lake could resurrect a people. Loretta Fowler's study of the Arapaho is yet another example

of how a group with the material underpinnings of an old life cut away can maintain itself and partially shape its world. Indians are important in such examples precisely because they are politically and economically weak yet they retain some control over a way of life. Again I want to caution that my point here is not that Indians are somehow responsible for their own suffering, but rather, even in the worst of conditions and during the reservation period, the ability of whites to dictate to them was not absolute. They are an important corrective to the still deeply ingrained belief of students in a unilateral progression of history.³

The examples thus far have concentrated on arguing that Indian history can be quite useful in explaining processes of social change which are already prominent issues in the larger literature of social history. To conclude this paper, I would like to turn more briefly to a question of social change which is partially inspired by Annales' work where historians of Indian peoples have done some of the basic writing: environmental history.

Any connection posited between Indians and the environment immediately raises some false issues. What I am not talking about here is what remains the usual questions about Indians and environmental topics: Were Indians conservationists? Nor am I concerned with the corollary: Should we somehow adopt Indian attitudes? These are overworked questions and have much more to do with the uses symbolic Indians are put to by white society than with actual Indian peoples. Historical Indian attitudes toward the environment were diverse, and were rooted in cultural and religious systems far different than those of the larger society. They cannot

simply be transposed into the twentieth century for an exercise in comparative shopping as if this were all some sort of environmental Pepsi challenge. Furthermore, the use of Indians as environmental symbols can be demeaning. To paraphrase one of the Sierra Club picture books, Indians moved so easily over the face of the land that you could never tell that they had ever been there. The Sierra Club should look harder. Indian peoples were not just another natural species. They were human beings who shaped the land Europeans found. What whites took for natural abundance was very often an Indian creation.

Indian peoples created a landscape and depended on it for their subsistence. This should not be an earthshaking statement but precisely because Indians are still so often considered by students under the usual rubrics of savagism--whether noble or ignoble--they are presumed to have existed literally as a higher animal who adopted to environments but did not modify them. Demonstrating that they, too, shaped natural systems is not debunking their ecological image, it is rather restoring them to history. American history is not simply the conquest or rape of wilderness, it is rather the succession of human-influenced landscapes. Social changes often result in changes in natural systems and these changes in turn rebound back to limit the options available to developing societies. The reciprocal relationship between human society and the land and the consequences for land and society of English settlement emerge very clearly in William Cronon's excellent new book on Indians and whites in Colonial New England, Changes in the Land. Cronon treats Indians seriously to understand larger historical processes. He sees them as a distinct

people whose history does not stand apart after contact. His is a good beginning for understanding how the histories of whites and Indians intertwine, how both form the context for American history, and how Indian history can reveal larger patterns of change.

Context, as in all history, is the critical issue here. Whether Indians contributed to mainstream culture or whether aspects of American life today can be traced to Indian origins are basically irrelevant. What matters is that Indian peoples have created and continue to help create the context in which significant events and ideas arise. There is thus no real study of American history without them.

NOTES

1. There is a fine bibliographical article on the fur trade by Jacqueline Peterson and John Anfinson, "The Indian and the Fur Trade" in William Swagerty (ed.), Scholars and the Indian Experience: Critical Reviews of Recent Writing in the Social Sciences (Bloomington, Indiana University Press, 1984) 223-257; Eric Wolf, Europe and the People Without History (Berkeley, University of California Press, 1982); Philip Curtin, Cross-Cultural Trade in World History (New York, Cambridge University Press, 1984).
2. Calvin Martin, Keepers of the Game: Indian-Animal Relationships in the Fur Trade (Berkeley: University of California Press, 1978); Arthur J. Ray and Donald Freeman, Give Us Good Measure: An Economic Analysis of Relations Between the Indians and the Hudson's Bay Company Before 1763 (Toronto, University of Toronto Press, 1978). The quote is on page XV. In this context also see Toby Morantz, "The Fur Trade and the Cree of James Bay" and Arthur J. Ray, "Indians as Consumers in the Eighteenth Century," both in Carol M. Judd and Arthur J. Ray (editors), Old Trails and New Directions: Papers of the Third North American Fur Trade Conference (Toronto, University of Toronto Press, 1980) 39-58, 255-271.
3. Anthony Wallace, The Death and Rebirth of the Seneca (New York, Alfred Knopf, 1969); Loretta Fowler, Arapaho Politics, 1851-1978:

Symbols in Crises of Authority (Lincoln: University of Nebraska Press, 1982).

4. For a guide to current literature see my, "Native Americans and the Environment," in Swagerty, Scholars and the Indian Experience, 179-204.
5. William Cronon, Changes in the Land: Indians, Colonists. and the Ecology of New England (New York: Hill and Wang, 1983).

Comment on a Paper by Raymond D. Fogelson

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Let me begin with a word of thanks to Fred Hoxie for having brought us together here. It is always and generally a pleasure to visit Chicago and the Newberry Library. And this conference in particular has helped me in many ways to organize my thoughts about our common subject. First, it gave me a few hours of enforced leisure, strapped in flying arm-chair at 30,000 feet,--hours that I spent happily in the company of Francis Jennings' fine new book about The Iroquois Empire. Second, it provided an opportunity to listen and learn from scholars who are more expert in the field than I. Third, it created an occasion for exchanging classroom experiences with other instructors. Fourth, and best of all, the conference has given me the special privilege of meeting American Indians and hearing their own thoughts about their history--thoughts that have revolutionized my own. Certainly it is not the case that only an Indian can understand Indian history; but any proper history must be authentic in their eyes. I specially enjoyed my brief conversation with Alfonso Ortiz, Charles Roberts, and Helen Manning, a Wampanoag Indian who has taught her people for many years in a one room school house near to Gay Head Light House. It was a pleasure to listen and to learn from her.

Now it is my turn to talk, and I take as my text the question that was posed for this session by Fred Hoxie: "How can the teaching of Indian history be integrated in survey courses of social history?" I shall follow the order of Raymond Fogelson: first, a few broad thoughts about social history itself; then, a series of specific

suggestions about possibilities for its integration with Indian history.

Mr. Fogelson's paper is an intelligent and accurate critique of the mature work of Fernand Braudel, and the early work of LeRoy Ladurie. There are a few social historians who can move as fluently through the writings in Mr. Fogelson's field as he has done through our own. Nevertheless, despite his various qualifiers and disclaimers, I think he has made several major works of the Annales school more central to social history than in fact they have actually been. Even the French historians whom he discusses were much more diverse than he allows. Phillipe Aries, for example, was not of the Annales school. His attitudes were so far removed from them that he was banished from historical employment and forced to spend much of his career in an Institute for the Study of Tropical Fruits, where he wrote Centuries of Childhood. Michel Foucault was not an annalist. The Geneva School was far removed from the Annales School, both in its geography and in its epistemic attitudes. The French historical demographers did not belong to the Vie Section, but to the Institute National d'Etudes Demographiques, a very different organization.

Beyond France, the new social history began in many other forms. Without reciting a full list, one might suggest something of its extraordinary variety. Among the earliest was the German agricultural history of Wilhelm Abel, from whom Braudel has borrowed heavily. There were also the Swedish migration historians; and the English Leicester School; and what once was called the Warwick School; and the Spanish economic history of Vicens Vives, and also many syntheses of social science and social history that developed in the United States.

All of these various movements arose more or less simultaneously, independent of Parisian models. That, at least, is the creation myth of a social historian. We do not believe that Marc Bloh crossed the Bering Strait and peopled the new world with his progeny.

Further, it should be understood that Braudel's models are admired by many colleagues, but imitated by very few of them. In America, social historians discuss Braudel's writings in their own monographs mainly to indicate the distance between his thinking and then some. One example is an excellent new work in American ethnohistory, Charles Joyner's Down by the Riverside (Urbana, 1984).

Social history, in short does not share a common model, or a common method, or a common epistemology, or a common metaphysics. Not all social historians are quantifiers. Some make no use of numbers whatever; others are intensely hostile to quantification. Some are positivists in Mr. Fogelson's definition; but most are not, and many are as hostile to that idea as Mr. Fogelson himself appears to be.

If the new social history is not a single method, or a single model, or a single epistemology, or a single metaphysical stance, then what might it be? My answer (others will disagree) is that the new social history is not a new subdiscipline of history, but the discipline itself in a new form. Today, we are all social historians. An example appeared in this conference when Paul Murphy argued for a constitutional history that placed law securely in its social setting.

This new social history that now reaches outward to embrace us all is most of all a revolutionary enlargement of history in at least four of its vital dimensions. First, it is an enlargement of conceptual context, as "social" is larger than "policital." Second,

it is a substantive enlargement: in its search for the history of normative events rather than exceptional events. Third, it is a temporal enlargement: the old history was about the past; the new history is about change, with past and present and even the future in a mutual perspective. We had an example of this new spirit in Alvin Josephy's paper yesterday.

Fourth and most important, the new social history is an ethical enlargement of its discipline. The old history tended in its nationalistic way to be tribal in its nature. The purpose of David Muzzey's textbook was to foster in its American readers a sense of superiority over others. The treatment of Indians in those works was not careless or trivial or incidental (as some have suggested here) but a vital part of their interpretations.

The new social history seeks instead to bring different people into the historical process, and to cultivate a respect for their differences. Thus we have recently seen a great efflorescence of black history, of womens history, of labor history, of the history of the young, of the history of the old, and also of the history of Indians. This enlargement of history has been particularly strong in the United States, where many of us are Madisonian enough to believe that our differences are what keep us free.

Given this idea of social history, the next questions is how we might teach it in the classroom, and more specifically, how we might integrate Indian history in that teaching. Here the scale of the discussion must change in a fundamental way. In most surveys of American social history, given other business at hand, it is usually possible to devote to Indian history no more than a week at most--perhaps, three hours of class time, and two hundred pages of reading, and a short paper. What might we accomplish within those

narrow limits? A great many things, I think, if we conceive of the task as one of quickening the consciousness of our students, and of awakening an ongoing interest in the subject. The way in which we work toward that goal must take some account of the special backgrounds and interests of the undergraduates whom we teach in our various institutions. I teach at Brandeis University, where the "dominant faith" is very different from that of Richard White's students in Utah. Most of my students are bright, tough-minded cosmopolitan Jewish undergraduates, who come mainly from New York City (and many from abroad). I don't have to teach my students that history has happened--for it has happened to them. I don't have to tell that Indians are people: Most bring an instinctive sympathy to the subject. What I do have to teach my students is something else--that the history of Indians (and also American history) is an important and serious subject. Many of my students share a European contempt for American history.

Here is how I go about it. I teach a unit that is divisible into three parts: first, a comparative history of Indians and Europeans; second, an interactive history; third, a prescriptive history, to be explained below.

As to introducing students to the comparative social history of Indians and Europeans, there are many possible pedagogic strategies that might be used. I have asked other participants in this conference how they went about this task, and have heard as many approaches as I have had individual answers. My question was, "What is the first work that you ask your students to read on the Indians?"

Charles Roberts at California State starts with old photographs

of Indians; then introduces his students to a set of creation myths. Randolph Roth at Oberlin assigns a set of readings designed to communicate an idea of what he calls an "Indian's world view." Patricia Nelson Limerick at Boulder starts with a selection of Indian autobiographies, and then moves to tribal ethnography and then to broader historical writings. William Crozier at St. Mary's College, Winona, Minnesota, works from specially published local materials on Indian ethnography, in order to expose students to social history on their own familiar ground. James Henretta, when he and Gary Nash taught at UCLA the survey course for which Red, White and Black was written, started their students on the first hundred pages of Anthony Wallace's Death and Rebirth of the Seneca, an ethnographic analysis drawn largely from the Jesuit Relations. John Painter, who teaches at South Dakota where he faces a problem of intense racial prejudice, commences with a novel, Laughing Boy, to stimulate the thinking of his students. Alfonso Ortiz at New Mexico begins with a brief broad survey by D'Arcy McNickle.

All of these strategies appear to work well in the hands of those who have adopted them. But I tend to use still another approach, designed mainly to emphasize the high intellectual seriousness of the subject. I begin by teaching my students about the diversity of Indian cultures in the new world. A startling fact is supplied by Mario Pei, who reports a world census of languages spoken during the mid-twentieth century. Pei counted 2796 languages in the world, "exclusive of mere dialects." Of that number, more than 1200 were spoken by American Indians. This diversity is itself an important historical fact.

But I go on to argue that running through this diversity were certain common cultural characteristics. Social historians are beginning to discover these elemental unities in other parts of the world. One example comes from Europe, where historians have long dwelled upon national differences--so much so that A.J.P. Taylor could argue that "rejection of uniformity is one thing uniform to the inhabitants of Europe." But in a classic work of demographic history, J. Hajnal has demonstrated that there was, for example, a characteristic "European Marriage Pattern" (late marriage, and high proportion who never marry at all), which was unique to western Europe, and widespread within it. He found this pattern everywhere "west of a line running from Leningrad to Trieste." Most historians have accepted his argument.

Similarly in sub-sahara Africa, historians have stressed the broad diversity of cultures. But Jan Vansina in an important essay called "A Comparison of Africian Kingdoms" argues that there was a characteristic type of kingship that existed throughout east Africa, central Africa, southern Africa and west Africa as well. It was a polity that tended to be a "conquest state," characterized by extreme expressions of divine right, and arbitrary authority. I believe that important cultural characteristics were also shared by most North American Indian cultures. One example was a characteristic mode of child-rearing, classically described by Erik Erikson. This pattern appeared not merely among the Siouian people where Erikson himself observed it at first hand. It has also been described in the Iroquoian and Algonkian cultures, and among the southeastern Indians, and the Eskimos and the Indians of the southwest. There were of

course many variations in detail, and some significant exceptions, but the central tendency appears to have been very strong.

Similarly, there were also other elemental characteristics in Indian attitudes toward time, work, war, power, marriage, family, etc., etc. None of this meant to deny the importance of cultural variations, but rather to argue that they were variations upon a central theme.

In my course, similar arguments are made for the various West African cultures that were brought to the new world, and also for European cultures. Then, an argument is made that the meeting of Red, White and Black in the New World was a meeting of three different structures of value that have continued to coexist in our pluralistic nation.

A second unit is about the interactive history of Indians and Europeans. Here the object is to create a larger social history of the subject. I begin by teaching my students that when European settlements first were planted in North America, Indians moved not away but toward them. Further, Europeans tended deliberately to settle in the vicinity of Indians. There was a magnetic force at work, which drew both cultures inexorably toward one another. The result was a cultural renaissance for both cultures--a process of mutual enrichment, at tremendous human cost. Then, in my course, we go on to examine the process by which things went wrong--studying the history of hostilities through the experience of individuals on both sides. We also study the policies of both Indian and European leaders and discover that these policies commonly failed because they could not be imposed upon one's own side.

A third unit is a prescriptive history of Indian-European relations. Here the students are encouraged to think about framing policies for the future, in light of the experience of the past. The argument is not that we can know the future from the study of the past, but we can begin to clarify our own intentions. Here we consider how new structures might be created that might recognize cultural differences, within a strong and united pluralistic society. We consider such ideas as the following:

- in the U.S. Army, the creation of a U.S. Indian Corps
- the revival of a Indian Conservation Corps
- the creation of a new set of Indian lands; that is, of sacred lands rather than reservations.

We also discuss the problems of autonomy versus self determination in the operation of the Federal government today, and we talk about the question of libertarian rights and tribal autonomy. The object of all this is not to cover the ground in a comprehensive way, but to encourage students to begin to think seriously about the subject in that larger spirit which lies at the heart of the new social history.

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